



# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

**PLEASE NOTE:** Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

## CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

## Schedule for Rule Making 2012

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
<b>*Dec. 21 '11*</b>	Jan. 11 '12	Jan. 31 '12	Feb. 15 '12	Feb. 17 '12	Mar. 7 '12	Apr. 11 '12	July 9 '12
Jan. 6	Jan. 25	Feb. 14	Feb. 29	Mar. 2	Mar. 21	Apr. 25	July 23
Jan. 20	Feb. 8	Feb. 28	Mar. 14	Mar. 16	Apr. 4	May 9	Aug. 6
Feb. 3	Feb. 22	Mar. 13	Mar. 28	Mar. 30	Apr. 18	May 23	Aug. 20
Feb. 17	Mar. 7	Mar. 27	Apr. 11	Apr. 13	May 2	June 6	Sep. 3
Mar. 2	Mar. 21	Apr. 10	Apr. 25	Apr. 27	May 16	June 20	Sep. 17
Mar. 16	Apr. 4	Apr. 24	May 9	May 11	May 30	July 4	Oct. 1
Mar. 30	Apr. 18	May 8	May 23	<b>***May 23***</b>	June 13	July 18	Oct. 15
Apr. 13	May 2	May 22	June 6	June 8	June 27	Aug. 1	Oct. 29
Apr. 27	May 16	June 5	June 20	<b>***June 20***</b>	July 11	Aug. 15	Nov. 12
May 11	May 30	June 19	July 4	July 6	July 25	Aug. 29	Nov. 26
<b>***May 23***</b>	June 13	July 3	July 18	July 20	Aug. 8	Sep. 12	Dec. 10
June 8	June 27	July 17	Aug. 1	Aug. 3	Aug. 22	Sep. 26	Dec. 24
<b>***June 20***</b>	July 11	July 31	Aug. 15	Aug. 17	Sep. 5	Oct. 10	Jan. 7 '13
July 6	July 25	Aug. 14	Aug. 29	<b>***Aug. 29***</b>	Sep. 19	Oct. 24	Jan. 21 '13
July 20	Aug. 8	Aug. 28	Sep. 12	Sep. 14	Oct. 3	Nov. 7	Feb. 4 '13
Aug. 3	Aug. 22	Sep. 11	Sep. 26	Sep. 28	Oct. 17	Nov. 21	Feb. 18 '13
Aug. 17	Sep. 5	Sep. 25	Oct. 10	Oct. 12	Oct. 31	Dec. 5	Mar. 4 '13
<b>***Aug. 29***</b>	Sep. 19	Oct. 9	Oct. 24	<b>***Oct. 24***</b>	Nov. 14	Dec. 19	Mar. 18 '13
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Sep. 28	Oct. 17	Nov. 6	Nov. 21	<b>***Nov. 21***</b>	Dec. 12	Jan. 16 '13	Apr. 15 '13
Oct. 12	Oct. 31	Nov. 20	Dec. 5	<b>***Dec. 5***</b>	Dec. 26	Jan. 30 '13	Apr. 29 '13
<b>***Oct. 24***</b>	Nov. 14	Dec. 4	Dec. 19	<b>***Dec. 19***</b>	Jan. 9 '13	Feb. 13 '13	May 13 '13
<b>***Nov. 7***</b>	Nov. 28	Dec. 18	Jan. 2 '13	Jan. 4 '13	Jan. 23 '13	Feb. 27 '13	May 27 '13
<b>***Nov. 21***</b>	Dec. 12	Jan. 1 '13	Jan. 16 '13	Jan. 18 '13	Feb. 6 '13	Mar. 13 '13	June 10 '13
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### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
14	Wednesday, December 21, 2011	January 11, 2012
15	Friday, January 6, 2012	January 25, 2012
16	Friday, January 20, 2012	February 8, 2012

**PLEASE NOTE:**

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

**\*\*\*Note change of filing deadline\*\*\***

**EDUCATIONAL EXAMINERS BOARD[282]**

Cleanup of citations and outdated language, amendments to chs 1, 3, 5, 10, 11, 13, 15, 17, 20, 25 IAB 12/14/11 <b>ARC 9924B</b>	Room 3 Southwest, Third Floor Grimes State Office Building Des Moines, Iowa	January 4, 2012 1 p.m.
Disqualifying criminal convictions, 11.35(2)“a,” 25.3(1)“b” IAB 12/14/11 <b>ARC 9923B</b>	Room 3 Southwest, Third Floor Grimes State Office Building Des Moines, Iowa	January 4, 2012 1 p.m.

**EDUCATION DEPARTMENT[281]**

Accreditation standards— administration, school personnel, junior high program, 21st century learning skills, 12.3(3), 12.4, 12.5 IAB 12/14/11 <b>ARC 9909B</b>	State Board Room, Second Floor Grimes State Office Building Des Moines, Iowa	January 3, 2012 1 to 2 p.m.
Community college accreditation, 24.4, 24.6 IAB 12/14/11 <b>ARC 9907B</b>	State Board Room, Second Floor Grimes State Office Building Des Moines, Iowa	January 3, 2012 3 to 4 p.m.
Supplementary weighting— regional academy, 97.1, 97.4 IAB 12/14/11 <b>ARC 9908B</b>	State Board Room, Second Floor Grimes State Office Building Des Moines, Iowa	January 3, 2012 2 to 3 p.m.
Business procedures and deadlines, ch 99 IAB 12/14/11 <b>ARC 9916B</b>	State Board Room, Second Floor Grimes State Office Building Des Moines, Iowa	January 3, 2012 2 to 3 p.m.

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Annual reports of solid waste environmental management systems, ch 111 IAB 12/14/11 <b>ARC 9919B</b>	Conference Room 5E Wallace State Office Building Des Moines, Iowa	January 11, 2012 1 p.m.
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**NURSING BOARD[655]**

Organization and procedures of the board, 1.3(2) IAB 11/30/11 <b>ARC 9866B</b> <b>(ICN Network)</b>	Location: As directed by receptionist Workforce Development Department 1000 E. Grand Ave. Des Moines, Iowa (Origination Site)	December 20, 2011 1 to 2 p.m.
	Room 206 Northwest Area Education Agency 1520 Morningside Ave. Sioux City, Iowa	December 20, 2011 1 to 2 p.m.
	Room 123, Jones Hall Kirkwood Community College - 2 6301 Kirkwood Blvd. SW Cedar Rapids, Iowa	December 20, 2011 1 to 2 p.m.
	Room 139, Activity Center Northeast Iowa Community College - 1 10250 Sundown Rd. Peosta, Iowa	December 20, 2011 1 to 2 p.m.

**NURSING BOARD[655] (cont'd)****(ICN Network)**

Discipline,  
4.6, 4.14

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**(ICN Network)**

(See also **ARC 9622B**, IAB 7/27/11)

Room 106  
North Iowa Area Community College - 1  
500 College Dr.  
Mason City, Iowa  
December 20, 2011  
1 to 2 p.m.

Room 10, Gladbrook-Reinbeck High School  
600 Blackhawk St.  
Reinbeck, Iowa  
December 20, 2011  
1 to 2 p.m.

Room 024, Looft Hall  
Iowa Western Community College - 1  
2700 College Rd.  
Council Bluffs, Iowa  
December 20, 2011  
1 to 2 p.m.

Location: As directed by receptionist  
Workforce Development Department  
1000 E. Grand Ave.  
Des Moines, Iowa  
(Origination Site)  
December 20, 2011  
2 p.m.

Room 206  
Northwest Area Education Agency  
1520 Morningside Ave.  
Sioux City, Iowa  
December 20, 2011  
2 p.m.

Room 123, Jones Hall  
Kirkwood Community College - 2  
6301 Kirkwood Blvd. SW  
Cedar Rapids, Iowa  
December 20, 2011  
2 p.m.

Room 139, Activity Center  
Northeast Iowa Community College - 1  
10250 Sundown Rd.  
Peosta, Iowa  
December 20, 2011  
2 p.m.

Room 106  
North Iowa Area Community College - 1  
500 College Dr.  
Mason City, Iowa  
December 20, 2011  
2 p.m.

Room 10, Gladbrook-Reinbeck High School  
600 Blackhawk St.  
Reinbeck, Iowa  
December 20, 2011  
2 p.m.

Room 024, Looft Hall  
Iowa Western Community College - 1  
2700 College Rd.  
Council Bluffs, Iowa  
December 20, 2011  
2 p.m.

**PROFESSIONAL LICENSURE DIVISION[645]**

Approved providers of chiropractic  
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IAB 11/30/11 **ARC 9885B**

Fifth Floor Board Conference Room  
Lucas State Office Bldg.  
Des Moines, Iowa  
December 20, 2011  
8 to 8:30 a.m.

**PUBLIC SAFETY DEPARTMENT[661]**

Adoption of updated federal  
standards for building  
accessibility, 302.1 to 302.11  
IAB 12/14/11 **ARC 9922B**

First Floor Public Conference Room  
Public Safety Headquarters Bldg.  
215 E. 7th St.  
Des Moines, Iowa

January 3, 2012  
10 a.m.

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Motor Vehicle Division Offices  
6310 SE Convenience Blvd.  
Ankeny, Iowa

December 22, 2011  
10 a.m.  
(If requested)

The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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**ARC 9918B****AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 99D.22(5), the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 62, “Registration of Iowa-Foaled Horses and Iowa-Whelped Dogs,” Iowa Administrative Code.

The proposed amendments would create a thoroughbred promotional fund for payments to second, third and fourth place Iowa-bred thoroughbred winners at Prairie Meadows racetrack. 2011 Iowa Acts, Senate File 526, requires breeder’s awards or purse supplement awards to enhance and foster the growth of the horse breeding industry. The Iowa Thoroughbred Breeders and Owners Association voted this fall at its board meeting to request this change.

Any interested person may make written suggestions or comments on the proposed amendments on or before January 3, 2012. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or E-mail to [Margaret.Thomson@IowaAgriculture.gov](mailto:Margaret.Thomson@IowaAgriculture.gov).

The proposed amendments are subject to the Department’s general waiver provision.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement 2011 Iowa Acts, Senate File 526.

The following amendments are proposed.

ITEM 1. Amend rule 21—62.2(99D) as follows:

**21—62.2(99D) Iowa horse and dog breeders’ fund and Iowa thoroughbred horse breeders’ promotion fund.** Iowa-foaled horses and Iowa-whelped dog records and breeder payments:

The department will establish and maintain a records system entitled the “Iowa Horse and Dog Breeders’ Fund.” This records system will feature a list of thoroughbred, standardbred and quarter horses who have qualified to be Iowa-foaled horses, as well as a listing of all greyhound dogs that have qualified to be Iowa-whelped dogs.

A sum equal to 12 percent of the purse won by an Iowa-foaled horse or Iowa-whelped dog shall be used to promote the horse and dog breeding industries. This percentage shall be applicable to all races that are limited to Iowa-foaled horses or Iowa-whelped dogs as well as all other races which are won by Iowa-foaled horses or Iowa-whelped dogs.

The 12 percent shall be withheld by the licensee from the breakage and shall be paid at the end of the race meeting to the state department of agriculture and land stewardship which, in turn, shall deposit ~~it~~ the 12 percent in a special fund to be known as the “Iowa Horse and Dog Breeders’ Fund” and pay ~~it~~ the 12 percent by December 31 of each calendar year to the breeder of the winning Iowa-foaled horse or the breeder of the Iowa-whelped dog.

A sum equal to 6 percent of the purse won by an Iowa-foaled thoroughbred horse shall be used as a supplement to promote the thoroughbred horse breeding industries for horses placing second through fourth place. This percentage shall be applicable to all thoroughbred races that are held at Prairie Meadows racetrack.

The 6 percent supplement shall be withheld by the licensee from the horse breeders’ fund for thoroughbreds and shall be paid at the end of the race meeting to the state department of agriculture and land stewardship which, in turn, shall deposit it in a special fund to be known as the “Iowa

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

Thoroughbred Horse Breeders' Promotion Fund." This fund will pay 6 percent of the money earned to each horse placing second, third and fourth place by December 31 of each calendar year to the breeder of the Iowa-foaled thoroughbred horse.

**62.2(1) to 62.2(5)** No change.

ITEM 2. Amend rule **21—62.6(99D)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 99D.22 as amended by 2005 Iowa Acts, House File 808, sections 19 and 20.

**ARC 9920B****COLLEGE STUDENT AID COMMISSION[283]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 261.3 and 261.19(5), the College Student Aid Commission hereby gives Notice of Intended Action to rescind Chapter 14, “Osteopathic Physician Recruitment Program,” and to adopt new Chapter 14, “Health Care Professional Recruitment Program,” Iowa Administrative Code.

The rules in Chapter 14 describe the administration of the Iowa Osteopathic Physician Recruitment Program. This amendment rescinds the current rules and proposes, in their place, rules to implement the new Health Care Professional Recruitment Program enacted by the Iowa General Assembly in 2011 Iowa Acts, House File 645, section 12, which replaces the current program.

Interested persons may submit comments orally or in writing by 4:30 p.m. on January 17, 2012, to the Executive Director, Iowa College Student Aid Commission, 603 East 12th Street, Fifth Floor, Des Moines, Iowa 50319-9017; fax (515)725-3401.

The Commission does not intend to grant waivers under the provisions of these rules.

After analysis and review of this rule making, the Commission estimates that approximately seven additional health care professionals will be hired in rural Iowa communities.

These rules are intended to implement Iowa Code section 261.19 as amended by 2011 Iowa Acts, House File 645, section 12.

The following amendment is proposed.

Rescind 283—Chapter 14 and adopt the following new chapter in lieu thereof:

**CHAPTER 14****HEALTH CARE PROFESSIONAL RECRUITMENT PROGRAM****PREAMBLE**

The health care professional recruitment program is established to be administered by the college student aid commission for Des Moines University. The program shall consist of a loan repayment program for health care professionals who are graduates of Des Moines University. The college student aid commission shall regularly adjust the health care professional service requirement under each aspect of the program to provide, to the extent possible, an equal financial benefit.

**283—14.1(261) Definitions.**

“*Eligible rural community*” means a medically underserved rural Iowa community which agrees to match state funds on at least a dollar-for-dollar basis for the loan repayment of a health care professional who practices in the community.

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

*“Health care professional”* means an individual who holds a practitioner’s license issued by an agency or board under the Iowa department of public health and is employed as a physician, physician assistant, podiatrist, or physical therapist.

**283—14.2(261) Health care professional loan repayment program.**

**14.2(1) Recruitment.** The university shall recruit and place health care professionals in eligible rural communities that agree to provide matching funds for the health care professional loan repayment program.

**14.2(2) Health care professional service requirement.** The health care professional service requirement for the health care professional loan repayment program is four years. The health care professional must annually verify, in a format acceptable to the commission, that the health care professional practiced in an eligible rural community for 12 consecutive months for each year of required service. An award will be prorated based on the months of service provided in a state fiscal year if less than 12 months.

**14.2(3) Award.** The health care professional may receive up to \$50,000 in state-funded repayment benefits when a community agrees to fund matching benefits of an equal or greater amount.

**14.2(4) Eligible loans.** Eligible loans include subsidized and unsubsidized Stafford loans, Grad PLUS loans and consolidated loans. Only the outstanding portion of a Federal Consolidation Loan that was used to repay an eligible subsidized or unsubsidized Federal Stafford Loan, an eligible Direct Subsidized Loan, an eligible Direct Unsubsidized Loan, or an eligible Grad PLUS Loan qualifies for loan repayment.

**14.2(5) Disbursement.** The commission shall disburse the loan payment to the health care professional’s loan holder in return for completion of the service requirements in an eligible rural community.

**14.2(6) Restrictions.** A health care professional who is in default on a Stafford loan, SLS loan, Grad PLUS loan, or a Perkins/National Direct/National Defense student loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for repayment benefits. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapter 5, Iowa Administrative Code.

**14.2(7) Repayment.**

*a.* If loan repayment funds are applied prior to the health care professional’s completion of the service requirement and the health care professional fails to complete the service requirement, repayment shall begin 30 days following termination of practice in an eligible rural community.

*b.* The commission shall prorate the award balance based on the months of service provided.

*c.* The health care professional shall repay the prorated balance of the loan repayment benefits and accrued interest at 12 percent per annum. Interest shall accrue on the unpaid principal balance of each loan from the effective date of the loan repayment agreement until the loan is paid in full.

*d.* The prorated balance owed by the health care professional must be paid in full within three years from the date the service ends.

**283—14.3(261) Osteopathic forgivable loan.**

**14.3(1) Physician service requirement.** The physician service requirement for the osteopathic forgivable loan program is one year for borrowers who received up to two annual loans and two years for borrowers who received three or more annual loans.

**14.3(2) Promissory note.** Loans disbursed are subject to the terms and conditions specified in the promissory note. The college student aid commission shall honor master promissory notes signed while a borrower is attending the university and shall enforce the loans according to the terms and conditions provided in the master promissory note.

These rules are intended to implement Iowa Code section 261.19 as amended by 2011 Iowa Acts, House File 645, section 12.

**ARC 9924B****EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 1, “General,” Chapter 3, “Declaratory Orders,” Chapter 5, “Public Records and Fair Information Practices,” Chapter 10, “Child Support Noncompliance,” Chapter 11, “Complaints, Investigations, Contested Case Hearings,” Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Chapter 15, “Special Education Support Personnel Authorizations,” Chapter 17, “Career and Technical Endorsements and Licenses,” Chapter 20, “Renewals,” and Chapter 25, “Code of Professional Conduct and Ethics,” Iowa Administrative Code.

These amendments clean up language, Iowa Code citations and administrative rule citations in the administrative rules of the Board of Educational Examiners. During the 2002 legislative session, changes were made to the numbering and language of the Iowa Rules of Civil Procedure (Iowa R.C.P.). The references to the Iowa R.C.P. in the Board’s current rules do not reflect the changes and must be amended to reference the correct Iowa R.C.P. section. In 2002, Iowa Code section 272.6 was repealed; the Board’s rules still reference this section. The information on fraudulent applications is referenced in Iowa Code 272.2, subsection 14, paragraph “b,” subparagraph (3), and the Board’s rules therefore should be amended to reference this Iowa Code section. During the 2009 legislative session, 2009 Iowa Acts, Senate File 340, repealed Iowa Code section 692A.13 and created Iowa Code section 692A.121. The Board’s rules reference a repealed Iowa Code section and therefore must be amended to reference the new Iowa Code section. In 2008, the Board renumbered several chapters of its rules and changed the references to these renumbered chapters in its rules as necessary; several old references remain in the rules that need to reference the 2008 changes. The Board has made necessary changes to references to the Iowa Code as the Iowa legislature has amended Iowa Code sections affecting the Board. The changes to the Board’s rules have referenced the location of the amended Iowa Code in the Iowa Acts or the Supplement to the Iowa Code. These amendments are now codified in the Iowa Code, and the Board’s rules should cite the correct Iowa Code reference. Additional cleanup of the Board’s rules corrects citations to the Iowa Code and revises unclear and confusing language.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, January 4, 2012, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, January 6, 2012. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

After analysis and review of this rule making, no adverse impact on jobs has been found. These amendments clean up outdated language.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

These amendments are intended to implement Iowa Code chapter 272.

The following amendments are proposed.

ITEM 1. Amend subrule 1.2(2) as follows:

**1.2(2) Composition.** The composition of the board is defined in Iowa Code section 272.3 ~~as amended by 2007 Iowa Acts, House File 615, section 1.~~

ITEM 2. Amend **282—Chapter 3**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 17A.9 ~~as amended by 1998 Iowa Acts, chapter 1202.~~

ITEM 3. Amend paragraph **5.13(2)“g”** as follows:

g. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa ~~R.C.P. 122(e)~~ R. Civ. P. 1.503, Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

ITEM 4. Amend **282—Chapter 10** as follows:

CHAPTER 10  
CHILD SUPPORT NONCOMPLIANCE

**282—10.1(272,252J) Issuance or renewal of a license—denial.** The board shall deny the issuance or renewal of a license upon the receipt of a certificate of noncompliance from the child support recovery unit of the department of human services according to the procedures in Iowa Code ~~Supplement~~ chapter 252J. In addition to the procedures set forth in Iowa Code ~~Supplement~~ chapter 252J, the following shall apply.

**10.1(1)** The notice required by Iowa Code ~~Supplement~~ section 252J.8 shall be served upon the applicant or licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa ~~Rules~~ Rule of Civil Procedure ~~56.4~~ 1.305. Alternatively, the applicant or licensee may accept service personally or through authorized counsel.

**10.1(2)** The effective date of the denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code ~~Supplement~~ section 252J.8, shall be 60 days following service of the notice upon the applicant or licensee.

**10.1(3)** The board's administrator is authorized to prepare and serve the notice required by Iowa Code ~~Supplement~~ section 252J.8 upon the applicant or licensee.

**10.1(4)** Applicants and licensees shall keep the board informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code ~~Supplement~~ chapter 252J and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code ~~Supplement~~ section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

**10.1(5)** All board fees required for application, license renewal, or license reinstatement must be paid by applicants or licensees before a license will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license pursuant to Iowa Code ~~Supplement~~ chapter 252J.

**10.1(6)** In the event an applicant or licensee files a timely district court action following service of a board notice pursuant to Iowa Code ~~Supplement~~ sections 252J.8 and 252J.9, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

**10.1(7)** No change.

**282—10.2(252J) Suspension or revocation of a license.** The board shall suspend or revoke a license upon the receipt of a certificate of noncompliance from the child support recovery unit of the department

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

of human services according to the procedures set forth in Iowa Code Supplement chapter 252J. In addition to the procedures set forth in Iowa Code Supplement chapter 252J, the following shall apply.

**10.2(1)** The notice required by Iowa Code Supplement section 252J.8 shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa ~~Rules~~ Rule of Civil Procedure ~~56.4~~ 1.305. Alternatively, the licensee may accept service personally or through authorized counsel.

**10.2(2)** The effective date of the suspension or revocation of a license, as specified in the notice required by Iowa Code Supplement section 252J.8, shall be 60 days following service of the notice upon the licensee.

**10.2(3)** The board's administrator is authorized to prepare and serve the notice required by Iowa Code Supplement section 252J.8 and is directed to notify the licensee that the license will be suspended unless the license is already suspended on other grounds. In the event that the license is on suspension, the administrator shall notify the licensee of the board's intention to continue the suspension.

**10.2(4)** The licensee shall keep the board informed of all court actions; and all child support recovery unit action taken under or in connection with Iowa Code Supplement chapter 252J and shall provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code Supplement section 252J.9, all court orders entered in such actions and withdrawals of certificates of noncompliance by the child support recovery unit.

**10.2(5)** All board fees required for license renewal or license reinstatement must be paid by licensees before a license will be reinstated after the board has suspended or revoked a license pursuant to Iowa Code Supplement chapter 252J.

**10.2(6)** In the event a licensee files a district court action following service of a board notice pursuant to Iowa Code Supplement sections 252J.8 and 252J.9, the board shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the suspension or revocation, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

**10.2(7)** No change.

**282—10.3(17A,22,252J) Sharing of information.** Notwithstanding any statutory confidentiality provision, the board may share information with the child support recovery unit of the department of human services through manual or automated means for the sole purpose of identifying applicants or licensees subject to enforcement under Iowa Code Supplement chapter 252J or 598.

These rules are intended to implement Iowa Code Supplement chapter 252J.

ITEM 5. Amend rule **282—11.2(17A)**, definition of "Contested case," as follows:

"*Contested case*" means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under ~~1998 Iowa Acts, chapter 1202, section 14~~ Iowa Code section 17A.10A.

ITEM 6. Amend numbered paragraph **11.4(1)"d"(1)"3"** as follows:

3. Has not met a reporting requirement stipulated by Iowa Code section 272.15 ~~as amended by 2007 Iowa Acts, Senate File 588, section 33, Iowa Code section 279.43, 281—subrule 102.11(2), 282—Chapter 11, or 282—Chapter 25; or~~

ITEM 7. Amend subrule 11.11(2) as follows:

**11.11(2)** The term "personally investigated" means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term "personally investigated" does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person's investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. Factual information relevant to the

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17 ~~as amended by 1998 Iowa Acts, chapter 1202, section 19,~~ and subrules 11.11(3) and 11.24(9).

ITEM 8. Amend subrule 11.11(4), introductory paragraph, as follows:

**11.11(4)** If a party asserts disqualification on any appropriate ground, including those listed in subrule 11.11(1), the party shall file a motion supported by an affidavit pursuant to ~~1998 Iowa Acts, chapter 1202, section 19(7)~~ Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party.

ITEM 9. Amend subrule 11.23(6) as follows:

**11.23(6)** “Good cause” for purposes of this rule shall have the same meaning as “good cause” for setting aside a default judgment under Iowa Rule of Civil Procedure ~~236~~ 1.977.

ITEM 10. Amend subrule 11.30(2) as follows:

**11.30(2)** *When granted.* In determining whether to grant a stay, the executive director or presiding officer shall consider the factors listed in ~~1998 Iowa Acts, chapter 1202, section 23(5e)~~ Iowa Code section 17A.19(5).

ITEM 11. Amend subrule 11.35(3) as follows:

**11.35(3)** *Fraudulent applications.* An application shall be considered fraudulent pursuant to Iowa Code section ~~272.6(4)~~ 272.2(14) “b”(3) if it contains any false representation of a material fact or any omission of a material fact which should have been disclosed at the time of application for licensure or is submitted with a false or forged diploma, certificate, affidavit, identification, or other document material to the applicant’s qualification for licensure or material to any of the grounds for denial set forth in Iowa Code sections ~~section 272.2(14) and 272.6.~~

ITEM 12. Amend subrule 11.38(1) as follows:

**11.38(1)** *Method of reporting.* A report of misconduct made by the director, pursuant to Iowa Code Supplement section ~~256.9(56)~~ 256.9(52), or made by an employee of the department of education, pursuant to Iowa Code Supplement section 272.15(2), shall comply with the requirements of subrule 11.37(1).

ITEM 13. Amend subrule 13.21(3) as follows:

**13.21(3)** Credit for the human relations requirement shall be given for licensed persons who can give evidence that they have completed a human relations program which meets board of educational examiners criteria (see rule ~~282—13.24(272)~~ 13.22(272)).

ITEM 14. Amend paragraph **15.7(6)“a”** as follows:

*a. Authorization.* The holder of this license is authorized to teach pupils with a visual impairment (see Iowa Code section ~~256B.8~~ 256B.2), including those pupils who are deaf-blind.

ITEM 15. Amend paragraph **17.2(2)“f”** as follows:

*f.* An approved human relations course as described in rule ~~282—13.26(272)~~ 13.22(272).

ITEM 16. Amend subrule 20.3(3) as follows:

**20.3(3)** *Background check.* Every renewal applicant is required to submit a completed application form with the applicant’s signature to facilitate a check of the sex offender registry information under Iowa Code section ~~692A.13~~ 692A.121, the central registry for child abuse information established under Iowa Code chapter 235A, and the dependent adult abuse records maintained under Iowa Code chapter 235B. The board may assess the applicant a fee no greater than the costs associated with obtaining and evaluating the background check.

ITEM 17. Amend paragraph **25.3(3)“d”** as follows:

*d.* Falsifying any records or information submitted to the board in compliance with the license renewal requirements imposed under ~~282—Chapter 47~~ 20.



ARC 9923B

**EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 11, “Complaints, Investigations, Contested Case Hearings,” and Chapter 25, “Code of Professional Conduct and Ethics,” Iowa Administrative Code.

The proposed amendments update the rules pertaining to disqualifying criminal convictions to reflect 2011 Iowa Acts, Senate File 120.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, January 4, 2012, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, January 6, 2012. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 272.2(14)“b”(1) as amended by 2011 Iowa Acts, Senate File 120.

The following amendments are proposed.

ITEM 1. Amend paragraph **11.35(2)“a”** as follows:

*a. Disqualifying criminal convictions.* The board shall deny an application for licensure if the applicant or licensee has been convicted, has pled guilty to, or has been found guilty of the following criminal offenses, regardless of whether the judgment of conviction or sentence was deferred:

(1) Any of the following forcible felonies included in Iowa Code section 702.11: child endangerment, assault, murder, sexual abuse, or kidnapping;

(2) Any of the following criminal sexual offenses, as provided in Iowa Code chapter 709, involving a child:

1. First-, second- or third-degree sexual abuse committed on or with a person who is under the age of 18;

2. Lascivious acts with a child;

3. Assault with intent to commit sexual abuse;

4. Indecent contact with a child;

5. Sexual exploitation by a counselor; or

6. Lascivious conduct with a minor;

7. Enticing a minor under Iowa Code section 710.10; or

8. Human trafficking under Iowa Code section 710A.2;

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

- (3) Incest involving a child as prohibited by Iowa Code section 726.2;
- (4) Dissemination and exhibition of obscene material to minors as prohibited by Iowa Code section 728.2; ~~or~~
- (5) Telephone dissemination of obscene material to minors as prohibited by Iowa Code section 728.15;<sub>2</sub>
- (6) Any offense specified in the laws of another jurisdiction, or any offense that may be prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in paragraph 11.35(2) "a";  
or
- (7) Any offense under prior laws of this state or another jurisdiction, or any offense under prior law that was prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in paragraph 11.35(2) "a."

ITEM 2. Amend paragraph **25.3(1)"b"** as follows:

*b. Criminal convictions.* The commission of or conviction for a criminal offense as defined by Iowa law ~~or the laws of any other state or of the United States~~, provided that the offense is relevant to or affects teaching or administrative performance.

(1) Disqualifying criminal convictions. The board shall deny an application for licensure and shall revoke a previously issued license if the applicant or licensee has, on or after July 1, 2002, been convicted of, has pled guilty to, or has been found guilty of the following criminal offenses, regardless of whether the judgment of conviction or sentence was deferred:

1. Any of the following forcible felonies included in Iowa Code section 702.11: child endangerment, assault, murder, sexual abuse, or kidnapping;

2. Any of the following criminal sexual offenses, as provided in Iowa Code chapter 709, involving a child:

- First-, second- or third-degree sexual abuse committed on or with a person who is under the age of 18;
- Lascivious acts with a child;
- Assault with intent to commit sexual abuse;
- Indecent contact with a child;
- Sexual exploitation by a counselor;
- Lascivious conduct with a minor; ~~or~~
- Sexual exploitation by a school employee;
- Enticing a minor under Iowa Code section 710.10; or
- Human trafficking under Iowa Code section 710A.2;

3. Incest involving a child as prohibited by Iowa Code section 726.2;

4. Dissemination and exhibition of obscene material to minors as prohibited by Iowa Code section 728.2; ~~or~~

5. Telephone dissemination of obscene material to minors as prohibited by Iowa Code section 728.15;<sub>2</sub>

6. Any offense specified in the laws of another jurisdiction, or any offense that may be prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in subparagraph 25.3(1) "b"(1); or

7. Any offense under prior laws of this state or another jurisdiction, or any offense under prior law that was prosecuted in a federal, military, or foreign court, that is comparable to an offense listed in subparagraph 25.3(1) "b"(1).

(2) No change.

## ARC 9909B

## EDUCATION DEPARTMENT[281]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 12, “General Accreditation Standards,” Iowa Administrative Code.

This chapter sets accreditation standards for all Iowa school districts and accredited nonpublic schools. A brief description of the five items and the rationale for the rule making in each item are as follows:

Item 1 strikes a reference to a statute (Iowa Code section 272.33) that has been repealed.

Item 2 adds a clarification that one individual may not simultaneously serve as superintendent, secondary principal, and elementary principal. This proposal conforms to Iowa Code section 280.14(2). The clarification is already in subrule 12.4(4) and is added in subrule 12.4(6) as a convenience for the reader.

Item 3 rescinds the rule that required a certification of fitness because this is not an accreditation requirement. School bus drivers are still subject to a physical examination requirement.

Item 4 implements 2011 Iowa Acts, Senate File 453, by adding terms and conditions under which schools and school districts may award secondary credit to non-secondary students.

Item 5 defines the components of twenty-first century learning skills to comply with Iowa Code section 256.7(26)(a).

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before January 3, 2012, at 4:30 p.m. Comments on the proposed amendments should be directed to Del Hoover, Iowa Department of Education, Third Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8402; E-mail [del.hoover@iowa.gov](mailto:del.hoover@iowa.gov); or fax (515)242-6025.

A public hearing will be held on January 3, 2012, from 1 to 2 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of their specific needs by calling (515)281-5295.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement 2011 Iowa Acts, Senate File 453, and Iowa Code sections 256.7(26) and 280.14(2).

The following amendments are proposed.

ITEM 1. Amend subrule 12.3(3) as follows:

**12.3(3) *Personnel evaluation.*** Each board shall adopt evaluation criteria and procedures for all contracted staff. The evaluation processes shall conform to Iowa Code sections ~~272.33~~, 279.14, and 279.23A.

ITEM 2. Amend subrule 12.4(6) as follows:

**12.4(6) *Staffing policies—secondary schools.*** The board operating a secondary school shall develop and adopt staffing policies designed to attract, retain, and effectively utilize competent personnel. Each board operating a secondary school shall employ at least one secondary principal. This position may be combined with that of elementary principal or with a teaching assignment at the elementary or secondary level, provided the individual holds the proper licenses/certificates and endorsements. This position ~~cannot~~ may be combined with that of superintendent, but one person may not serve as elementary principal, secondary principal, and superintendent.

## EDUCATION DEPARTMENT[281](cont'd)

ITEM 3. Rescind and reserve subrule **12.4(14)**.

ITEM 4. Adopt the following new paragraph **12.5(4)“I”**:

*1. Secondary credit.*

(1) An individual pupil in grade 7 or 8 may be allowed to take a course for secondary credit if all of the following are true:

1. The pupil satisfactorily completes the course.

2. The course is in the curricular area of English or language arts, mathematics, science, or social studies.

3. The course is taught by a teacher licensed by the Iowa board of educational examiners for grades 9-12 and endorsed in the subject area.

4. The course meets all components listed in subrule 12.5(5) for the specific curricular area.

5. The board of the school district or the authorities in charge of the nonpublic school have developed enrollment criteria that a student must meet to be enrolled in the course.

(2) Neither school districts nor accredited nonpublic schools are mandated to offer secondary credit under this paragraph. If credit is offered under this paragraph, the credit must apply toward graduation requirements of the district or accredited nonpublic school.

ITEM 5. Adopt the following new subrule 12.5(17):

**12.5(17) *Twenty-first century learning skills.*** Twenty-first century learning skills include civic literacy, health literacy, technology literacy, financial literacy, and employability skills. Schools and school districts shall address the curricular needs of students in kindergarten through grade twelve in these areas. In doing so, schools and school districts shall apply to all curricular areas the universal constructs of critical thinking, complex communication, creativity, collaboration, flexibility and adaptability, and productivity and accountability.

*a. Civic literacy.* Components of civic literacy include rights and responsibilities of citizens; principles of democracy and republicanism; purpose and function of the three branches of government; local, state, and national government; inherent, expressed, and implied powers; strategies for effective political action; how law and public policy are established; how various political systems define rights and responsibilities of the individual; the role of the United States in current world affairs.

*b. Health literacy.* Components of health literacy include understanding and using basic health concepts to enhance personal, family and community health; establish and monitor health goals; effectively manage health risk situations and advocate for others; demonstrate a healthy lifestyle that benefits the individual and society.

*c. Technology literacy.* Components of technology literacy include creative thinking; development of innovative products and processes; support of personal learning and the learning of others; gathering, evaluating, and using information; use of appropriate tools and resources; conduct of research; project management; problem solving; informed decision making.

*d. Financial literacy.* Components of financial literacy include developing short- and long-term financial goals; understanding needs versus wants; spending plans and positive cash flow; informed and responsible decision making; repaying debt; risk management options; saving, investing, and asset building; understanding human, cultural, and societal issues; legal and ethical behavior.

*e. Employability skills.* Components of employability skills include different perspectives and cross-cultural understanding; adaptability and flexibility; ambiguity and change; leadership; integrity, ethical behavior, and social responsibility; initiative and self-direction; productivity and accountability.

**ARC 9899B**

**EDUCATION DEPARTMENT[281]**

**Notice of Termination**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa

## EDUCATION DEPARTMENT[281](cont'd)

Administrative Bulletin on August 24, 2011, as **ARC 9684B**, proposing to amend Chapter 22, "Senior Year Plus Program," Iowa Administrative Code.

The Notice proposed to implement 2011 Iowa Acts, Senate File 470, section 12, which struck Iowa Code section 261E.8, subsection 5, providing that the parent or guardian of a student attending a community college under concurrent enrollment "shall furnish transportation to and from the community college for the student." The proposed new rule stipulated that the provision of transportation is the school district's responsibility because districts receive supplementary weighted funds for each student enrolled in a concurrent enrollment course.

After the Notice was published, the agency became aware of the need for further clarity from the Legislature about this issue.

The State Board of Education is terminating the rule making commenced in **ARC 9684B**.

After analysis and review of this rule making, no impact on jobs has been found.

**ARC 9900B****EDUCATION DEPARTMENT[281]****Notice of Termination**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on August 24, 2011, as **ARC 9685B**, proposing to amend Chapter 24, "Community College Accreditation," Iowa Administrative Code.

After the Notice was published, the Department determined that additional rules and subrules should be amended. A new Notice of Intended Action, published herein as **ARC 9907B**, has been commenced and includes all items in **ARC 9685B**, along with additional amendments.

The State Board of Education is terminating the rule making commenced in **ARC 9685B**.

After analysis and review of this rule making, no impact on jobs has been found.

**ARC 9907B****EDUCATION DEPARTMENT[281]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1) "b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 24, "Community College Accreditation," Iowa Administrative Code.

The proposed amendments in Items 2 and 4 conform the rules to 2011 Iowa Acts, Senate File 470, sections 9 and 6, respectively. The other amendments are proposed to reflect the new accreditation process being put into place by the Higher Learning Commission, including the phasing out of accreditation by the Program to Evaluate Academic Quality. The Department discussed the proposed amendments with representatives from the following stakeholder groups: Iowa Association of Community College Presidents (IACCP), Iowa Association of Community College Trustees (IACCT), Community College Chief Academic Officers, Iowa Arts and Sciences Administrators (IASA), Community College Career and Technical Deans/Directors, Iowa State Education Association (ISEA), Community College Continuing Education Deans/Directors, Community College Business Officers, Iowa Community College Student Services Administrators (ICSSA), Community College Faculty Advisory Committee, Community College Accreditation Advisory Committee, and Community College Professional Development Advisory Committee.

## EDUCATION DEPARTMENT[281](cont'd)

Substantially similar amendments were published under Notice of Intended Action as **ARC 9685B** in the August 24, 2011, Iowa Administrative Bulletin. Following publication of the Notice, the IACCP wrote to the Department to ask that Item 1 be further amended and that Item 3 be added. Notice of Termination for **ARC 9685B** is published herein as **ARC 9900B**, and this rule making incorporates amendments that reflect the requests of the IACCP.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before January 3, 2012, at 4:30 p.m. Comments on the proposed amendments should be directed to Colleen Hunt, Bureau Chief, Bureau of Adult, Career, and Community College Education, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-0319; E-mail [colleen.hunt@iowa.gov](mailto:colleen.hunt@iowa.gov); or fax (515)281-6544.

A public hearing will be held on January 3, 2012, from 3 to 4 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of specific needs by calling (515)281-3125.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement 2011 Iowa Acts, Senate File 470, sections 6 and 9.

The following amendments are proposed.

ITEM 1. Amend rule 281—24.4(260C) as follows:

**281—24.4(260C) Accreditation components and criteria—Higher Learning Commission.** In order to be accredited by the state board of education and maintain accreditation status, a community college must meet the accreditation criteria of the Higher Learning Commission and additional state standards. Documents and materials provided in accordance with the accreditation requirements of the Higher Learning Commission shall also be provided to the department for the state accreditation process. ~~Accreditation shall be maintained either by the Program to Evaluate Academic Quality (PEAQ) or the alternative Academic Quality Improvement Program (AQIP) process. The Higher Learning Commission criteria for accreditation are as follows:~~

**24.4(1) *Mission and integrity.*** ~~The organization operates with integrity to ensure the fulfillment of its mission through structures and processes that involve the board, administration, faculty, staff, and students.~~

~~a. The organization's mission documents are clear and articulate publicly the organization's commitments.~~

~~b. In its mission documents, the organization recognizes the diversity of its learners, other constituencies, and the greater society it serves.~~

~~c. Understanding of and support for the mission pervade the organization.~~

~~d. The organization's governance and administrative structures promote effective leadership and support collaborative processes that enable the organization to fulfill its mission.~~

~~e. The organization upholds and protects its integrity.~~

**24.4(2) *Preparing for the future.*** ~~The organization's allocation of resources and its processes for evaluation and planning demonstrate its capacity to fulfill its mission, improve the quality of its education, and respond to future challenges and opportunities.~~

~~a. The organization realistically prepares for a future shaped by multiple societal and economic trends.~~

~~b. The organization's resource base supports its educational programs and its plans for maintaining and strengthening the program's quality in the future.~~

~~c. The organization's ongoing evaluation and assessment processes provide reliable evidence of institutional effectiveness that clearly informs strategies for continuous improvement.~~

~~d. All levels of planning align with the organization's mission, thereby enhancing the organization's capacity to fulfill that mission.~~

## EDUCATION DEPARTMENT[281](cont'd)

~~24.4(3) *Student learning and effective teaching.* The organization provides evidence of student learning and effective teaching that demonstrates it is fulfilling its educational mission.~~

~~a.—The organization's goals for student learning outcomes are clearly stated for each educational program and make effective assessment possible.~~

~~b.—The organization values and supports effective teaching.~~

~~c.—The organization creates effective learning environments.~~

~~d.—The organization's learning resources support student learning and effective teaching.~~

~~24.4(4) *Acquisition, discovery, and application of knowledge.* The organization promotes a life of learning for its faculty, administration, staff, and students by fostering and supporting inquiry, creativity, practice, and social responsibility in ways consistent with its mission.~~

~~a.—The organization demonstrates, through the actions of its board, administrators, students, faculty, and staff, that it values a life of learning.~~

~~b.—The organization demonstrates that acquisition of a breadth of knowledge and skills and the exercise of intellectual inquiry are integral to its educational programs.~~

~~c.—The organization assesses the usefulness of its curricula to students who will live and work in a global, diverse, and technological society.~~

~~d.—The organization provides support to ensure that faculty, students, and staff acquire, discover, and apply knowledge responsibly.~~

~~24.4(5) *Engagement and service.* As called for by its mission, the organization identifies its constituencies and serves them in ways both value.~~

~~a.—The organization learns from the constituencies it serves and analyzes its capacity to serve their needs and expectations.~~

~~b.—The organization has the capacity and the commitment to engage with its identified constituencies and communities.~~

~~c.—The organization demonstrates its responsiveness to those constituencies that depend on the organization for service.~~

~~d.—Internal and external constituencies value the services the organization provides.~~

~~24.4(6) *Documentation.* Documents and materials provided in accordance with the accreditation requirements of the Higher Learning Commission shall also be provided to the department for the state accreditation process.~~

ITEM 2. Amend paragraph **24.5(2)“a”** as follows:

~~a. *College parallel or transfer Arts and sciences.* The full-time teaching load of an instructor in college parallel or transfer programs arts and sciences courses shall be 15 credit hours within a traditional semester or the equivalent and shall not exceed a maximum of 16 credit hours within a traditional semester or the equivalent. An instructor may also have a an additional teaching assignment outside of the normal school hours beyond the maximum academic workload, provided the instructor consents and the community college administration mutually consent to this additional assignment and the total workload does not exceed the equivalent of 48 22 credit hours within a traditional semester or the equivalent thereof.~~

ITEM 3. Amend paragraph **24.5(5)“d”** as follows:

~~d. *Library or learning resource center.* A library or learning resource center shall be planned as part of the master campus plan and space made for library or learning resource center services within the initial construction. The library or learning resource center shall be adequately staffed with qualified professionals and skilled nonprofessional personnel. The library or learning resource center materials collection of a community college shall be accessible and adequate in size and scope to serve effectively the number and variety of programs offered and the number of students enrolled, including students enrolled at distance and satellite sites. The library or learning resource center materials shall show evidence of having been selected by faculty as well as professional library or learning resource staff and shall be kept up-to-date. The budget of the library or learning resource center shall be appropriate for the programs and services offered by the community college.~~

## EDUCATION DEPARTMENT[281](cont'd)

ITEM 4. Amend subrule 24.5(6) as follows:

**24.5(6) Strategic planning.** The community college shall prepare a five-year strategic plan at least once every five years to guide the college and its decision making. ~~Consideration shall be given to the five-year statewide strategic plan, as required by Iowa Code section 256.31(4)(a), in the development of the college's strategic plan.~~

ITEM 5. Amend subparagraph **24.5(7)“b”(7)** as follows:

(7) Specific activities that ensure that faculty attain and demonstrate instructional competencies and knowledge in their subject or technical areas. It is recommended that the plan identify faculty minimum competencies and explain the method or methods of determining and assessing competencies. It is recommended that the plan contain procedures for reporting faculty progress. It is recommended that faculty be notified at least once a year of their progress in attaining competencies. ~~It is recommended that the plan include policies and provisions for length of provisional status for faculty who do not meet the minimum standards in Iowa Code section 260C.48. It is recommended that provisional status of individual faculty members not exceed five years.~~

ITEM 6. Amend paragraph **24.5(7)“c,”** introductory paragraph, as follows:

c. The department of education shall notify the community college when the department requires that a modified quality faculty plan be submitted. The department shall review the plan during the state accreditation ~~on-site visits~~ evaluations to ensure each community college's compliance and progress in implementing a quality faculty plan as approved by the local board of directors. The department shall review the following:

ITEM 7. Amend paragraph **24.6(1)“b”** as follows:

b. The department of education shall conduct ~~an a comprehensive~~ on-site accreditation evaluation of each community college ~~during the same academic year as the evaluation by the Higher Learning Commission of the North Central Association of Colleges and Schools~~ on a ten-year interval. An interim evaluation midway between comprehensive evaluations shall also be conducted. The department shall prepare a staggered evaluation schedule which sets no more than three comprehensive or interim evaluations in any one year. No comprehensive or interim evaluation shall be required for continued accreditation prior to a community college's first evaluation under the schedule. The department shall have the authority to conduct focus evaluation visits as needed.

ITEM 8. Amend paragraph **24.6(4)“a”** as follows:

a. *Accreditation granted.* Continuation of accreditation, if granted, shall be for a ~~term consistent with the term of accreditation by the Higher Learning Commission of the North Central Association of Colleges and Schools~~ ten-year term; however, approval for a lesser term may be granted by the state board of education if the board determines that conditions so warrant.

**ARC 9908B**

## EDUCATION DEPARTMENT[281]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 97, “Supplementary Weighting,” Iowa Administrative Code.

The proposed amendments conform to 2011 Iowa Acts, House File 645, section 15. A regional academy may serve students in grades seven and eight. A new provision of statute requires school



## EDUCATION DEPARTMENT[281](cont'd)

districts that participate in a regional academy to agree on how the funds received under rule 281—97.4(257) shall be used and to submit the agreement to the Department for approval.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before January 3, 2012, at 4:30 p.m. Comments on the proposed amendments should be directed to Jeff Berger, Deputy Director, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3968; E-mail [jeff.berger@iowa.gov](mailto:jeff.berger@iowa.gov); or fax (515)242-5988.

A public hearing will be held on January 3, 2012, from 2 to 3 p.m., in the State Board Room on the second floor of the Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of specific needs by calling (515)281-5295.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 261E.9 as amended by 2011 Iowa Acts, House File 645, section 15.

The following amendments are proposed.

ITEM 1. Amend rule **281—97.1(257)**, definition of “Regional academy,” as follows:

“*Regional academy*” shall mean an educational program established by a school district to which multiple school districts send students in grades 9 ~~7~~ through 12. The curriculum shall include advanced-level courses and, in addition, may include career-technical courses, Internet-based courses, and coursework delivered via the ICN. Regional academy courses shall not qualify as concurrent enrollment courses and do not generate any postsecondary credit. School districts participating in regional academies are eligible for supplementary weighting as provided in Iowa Code section 257.11, subsection 2.

ITEM 2. Amend paragraph **97.4(1)“c”** as follows:

c. The grade levels include one or more grades ~~nine~~ seven through twelve.

ITEM 3. Adopt the following new paragraph **97.4(1)“h”**:

h. The school districts participating in a regional academy shall enter into an agreement on how the funding generated by the supplementary weighting received shall be used and shall submit the agreement, as well as a copy of the minutes of meetings of the local school district boards of directors in which the boards approved the agreement, to the department for approval by October 1 of the year in which the districts intend to request supplementary weighting for the regional academy.

**ARC 9916B**

## EDUCATION DEPARTMENT[281]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to adopt new Chapter 99, “Business Procedures and Deadlines,” Iowa Administrative Code.

This chapter was prepared at the request of the members of the School Budget Review Committee (SBRC), who noted that one single chapter of rules in which financial deadlines and other general principles appear would be a convenience for school districts, area education agencies, the SBRC, and the general public.

An agencywide waiver provision is provided in 281—Chapter 4.

## EDUCATION DEPARTMENT[281](cont'd)

Interested individuals may make written comments on the proposed rules on or before January 3, 2012, at 4:30 p.m. Comments on the proposed rules should be directed to Jeff Berger, Deputy Director, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3968; E-mail [jeff.berger@iowa.gov](mailto:jeff.berger@iowa.gov); or fax (515)242-5988.

A public hearing will be held on January 3, 2012, from 2 to 3 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of their specific needs by calling (515)281-5295.

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement Iowa Code chapters 24, 256, 257, 285, and 291.

The following amendment is proposed.

Adopt the following **new** 281—Chapter 99:

CHAPTER 99  
BUSINESS PROCEDURES AND DEADLINES

**281—99.1(257) Definitions.** For the purposes of this chapter, the following definitions shall be used.

*“Area education agency”* or *“AEA”* means a school corporation organized under Iowa Code chapter 273.

*“Basis of accounting”* means the accrual/modified accrual accounting basis under generally accepted accounting principles (GAAP) as defined by the governmental accounting standards board (GASB).

*“Basis of budgeting”* means the accrual/modified accrual budgeting basis under GAAP as defined by the GASB.

*“SBRC”* means the school budget review committee appointed pursuant to Iowa Code section 257.30.

*“School district”* means a school corporation organized under Iowa Code chapter 274.

*“Unique”* means highly unusual, extraordinary; unparalleled.

*“Unusual”* means not usual or common; rare; constituting or occurring as an exception; not ordinary or average; affecting very few school districts or AEAs.

*“Usual”* means that which past experience has shown to be normal or common or is anticipated to become normal or common, hence an expected or predictable event; that which affects more than just a few school districts or AEAs.

**281—99.2(256,257,285,291) Submission deadlines.** It is the responsibility of the administrative officials and board members to submit information and materials as requested by the department of education, department of management, any other state agency, or any federal agency. Reports shall be filed electronically if an electronic format is available.

**99.2(1)** All school districts shall submit program plans, reports, or data collections in the manner, by the procedures, and on the dates prescribed by the department of education. Plans, reports, and data collections shall include, but not be limited to, the following:

## EDUCATION DEPARTMENT[281](cont'd)

Vehicle Information System	September 1
Annual Transportation Report	September 15
Certified Annual Report (CAR-COA)	September 15
Special Education Supplement	September 15
Facilities, Elections & Save Report	September 30
Certified Enrollment Report/PEACE	October 15
Certified Supplementary Weighting Report	October 15
School Board Officers Report	November 1
Annual Audit Report	March 31
Certified Budget	April 15

**99.2(2)** All AEAs shall submit program plans, reports, or data collections in the manner, by the procedures, and on the dates prescribed by the department of education. Plans, reports, and data collections shall include, but not be limited to, the following:

Certified Annual Report (CAR-COA)	September 15
Facilities Report	September 30
Certified Supplementary Weighting Report	October 15
School Board Officers Report	November 1
Proposed Budget	March 15
Annual Audit Report	March 31

**99.2(3)** If any plan, report, or data collection has not been received by the due date of the form or by the due date of a valid extension granted by the department of education, the following procedure shall be followed:

- a.* The superintendent of the school district or the administrator of the area education agency, and the president of the applicable board, shall be notified of the unfiled report and the number of days it is past due.
- b.* The state board of education, the SBRC, or the Iowa board of educational examiners may be notified of the school districts or AEAs which were not timely in filing one or more reports.
- c.* The SBRC may implement the procedures described in 289—subrule 6.3(5).

**281—99.3(257) Good cause for late submission.**

**99.3(1)** The department of education may upon request allow a school district or AEA to submit reports, data collections, or program plans after the due date listed in rule 281—99.2(256,257,285,291) for good cause.

*a.* Good cause shall include illness or death of a school district or AEA staff member involved in developing the program plan or submitting the report or data collection, acts of God, technological problems at the department lasting at least seven days within the final two weeks prior to the deadline that prevent access necessary for the plan, report, or data collection submission, or unforeseeable unusual or unique circumstances which, in the opinion of the director of the department, constitute sufficient cause for allowing submission of program plans, reports, or data collections after the published due date.

*b.* Good cause does not include consequences of local time management or administrative decisions or when districts and AEAs have timed out or have encountered system overloads within the final three days before the due date.

**99.3(2)** A school district or AEA desiring permission to submit a program plan, report, or data collection after the published due date shall notify the department staff member responsible for receiving the plan, report, or data collection as soon as possible upon determining that the district or AEA will not be able to meet the deadline, but no sooner than two weeks prior to the due date and no later than two days

EDUCATION DEPARTMENT[281](cont'd)

prior to the due date. When an extension of the submission deadline is allowed, the department shall establish a date by which the school district or AEA shall submit the plan, report, or data collection. Permission to submit a program plan, report, or data collection after the published due date shall expire upon receipt of the submission by the department and shall not carry over into subsequent application or reporting cycles.

**281—99.4(24,256,257,291) Budgets, accounting and reporting.** The school district or AEA shall budget on the GAAP basis of budgeting as defined by the GASB. School districts and AEAs shall use the chart of accounts defined in Uniform Financial Accounting for Iowa LEAs and AEAs (UFA). The school district or AEA shall maintain its financial records and prepare financial reports, including the Certified Annual Report, in the manner and by the procedures prescribed by the departments of education and management in the Uniform Financial Accounting for Iowa LEAs and AEAs (UFA) manual and GAAP. School districts and AEAs shall use the chart of accounts defined in Uniform Financial Accounting for Iowa LEAs and AEAs (UFA). The UFA manual shall be based on the most recent version of Financial Accounting for Local and State School Systems published by the United States Department of Education. If GAAP permits a choice of reporting methods for transactions, or if GAAP is in conflict with UFA, the department of education staff shall determine a uniform method of reporting to be used by all school districts and AEAs.

These rules are intended to implement Iowa Code chapters 24, 256, 257, 285 and 291.

## **ARC 9914B**

### **ENVIRONMENTAL PROTECTION COMMISSION[567]**

#### **Notice of Termination**

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby terminates the rule making initiated by the Notice of Intended Action published in the Iowa Administrative Bulletin on February 9, 2011, as **ARC 9366B** to amend Chapter 22, “Controlling Pollution,” create a new Chapter 30, “Fees,” and amend Chapter 33, “Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality,” Iowa Administrative Code.

The Notice proposed five options to address budget challenges facing the Department’s air quality program.

After a public hearing and consultation with stakeholder groups, it was decided that alternate funding strategies were needed. The changes will also require some additional information and stakeholder discussions, so amending the current Notice of Intended Action would not be practical.

Since the initiation of this rule making, 180 days have passed. Therefore, in accordance with the provisions of Iowa Code section 17A.4(1)“b,” the Department hereby terminates this rule making.

No adverse impact on jobs will result from this termination.

**ARC 9919B**

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 455J.4(2), the Environmental Protection Commission hereby proposes to adopt new Chapter 111, “Annual Reports of Solid Waste Environmental Management Systems,” Iowa Administrative Code.

The purpose of new Chapter 111 is to implement 2008 Iowa Acts, House File 2570, which creates a solid waste environmental management systems program. Iowa Code section 455J.4 requires solid waste planning areas or permitted facility service areas that have been designated environmental management systems to submit an annual compliance report. Iowa Code subsection 455J.4(2) requires the Department to adopt by rule methods and criteria for determining whether a system is in compliance with the requirements of Iowa Code section 455J.3. In adopting methods and criteria, the statute requires the Department to consult with stakeholders. In response to this, two opportunities were provided for stakeholder comment and feedback. One took place June 15, 2011, at a Solid Waste Environmental Systems Workshop. The other took place June 29, 2011, over the Iowa Communications Network at six locations throughout the state. Comments and feedback from stakeholders have been incorporated in this Notice of Intended Action.

Any interested person may submit written comments on the proposed rules on or before January 23, 2012. Written comments should be sent to the Iowa Department of Natural Resources, Attn: Angie Clark, 502 E. 9th Street, Des Moines, Iowa 50319; fax (515)281-8895; or E-mail [angie.clark@dnr.iowa.gov](mailto:angie.clark@dnr.iowa.gov).

A public hearing will be held at 1 p.m. on January 11, 2012, at the Wallace State Office Building, Conference Room 5E, 502 E. 9th Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advise of specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement Iowa Code section 455J.4.

The following amendment is proposed.

Adopt the following new 567—Chapter 111:

**CHAPTER 111**

**ANNUAL REPORTS OF SOLID WASTE ENVIRONMENTAL MANAGEMENT SYSTEMS**

**567—111.1(455J) Purpose.** This chapter establishes methods and criteria for determining whether a planning area’s or service area’s environmental management system is in compliance with the provisions of Iowa Code section 455J.3.

**567—111.2(455J) Role of the department.** Pursuant to Iowa Code subsection 455J.4(2), the department is responsible for the development and implementation of these rules.

**567—111.3(455J) Applicability.** This chapter applies to those planning and service areas that have been designated as environmental management systems and that seek to continue to be so designated. This is a voluntary program, and planning and service areas may elect to leave the program at any time.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Upon leaving the program, the planning or service area shall comply with the comprehensive planning requirements in 567—Chapter 101.

**567—111.4(455J) Definitions.** For the purposes of this chapter, the following definitions apply:

*“Annual report”* means the required submittal to the department that documents an environmental management system’s compliance with the requirements of Iowa Code section 455J.3.

*“Aspect”* means an element of a planning or service area’s activities or operations that can interact with the environment.

*“Audit”* means a planned, objective and documented assessment, either done internally by the program participant or its designee or externally by an independent third party, to determine the performance of a planning or service area’s system in relation to the designation requirements.

*“Council”* means the solid waste alternatives program advisory council appointed by the director pursuant to Iowa Code section 455J.6.

*“Environmental management system”* or *“EMS”* means the same as defined in Iowa Code section 455J.2(5).

*“Environmental policy”* means a statement by the planning or service area that includes:

1. The planning or service area’s intentions and principles in relation to its overall environmental performance, which provides a framework for action and for setting environmental objectives and targets; and
2. The planning or service area’s commitment to environmental compliance and continuous improvement.

*“Fenceline”* means the geographic area and the operations, facilities, and programs that the planning or service area has the ability to influence.

*“Impact”* means any change to the environment, whether adverse or beneficial, from an aspect of a planning or service area’s activities or operations.

*“Objective”* means an overall and quantifiable environmental goal arising from the planning or service area’s environmental policy.

*“Plan component”* means each of the six areas that are required to be addressed in an environmental management system, including: yard waste management, hazardous household waste collection, water quality improvement, greenhouse gas reduction, recycling services, and environmental education.

*“Planning area”* means the same as defined in rule 567—101.2(455B,455D).

*“Service area”* means that portion of a planning area that has been identified by the planning area to be a participant in the program. Only the service area is eligible for the program incentives described in Iowa Code section 455J.5.

*“Target”* means a detailed and quantifiable performance requirement that must be set and met in order to achieve the environmental objective. An objective may have several targets.

**567—111.5(455J) Submittal of annual reports.** Annual reports shall be submitted to the department by September 1 of each year and include all the requirements in 567—111.6(455J). Annual reports shall address activities that occurred during the previous state fiscal year that ended June 30. The reports shall be submitted on a form provided by the department.

**567—111.6(455J) Contents of annual reports.** The following elements shall be included in the annual report.

**111.6(1) Executive summary.** The executive summary shall include an overview of the environmental improvements and benefits achieved during the past year as related to the system’s objectives and targets. This summary would be similar to what is presented for management review.

**111.6(2) Environmental policy statement.** The annual report shall include a copy of the planning or service area’s environmental policy statement and the date it was last reviewed and, if appropriate, revised. A copy of the communication procedure or other documents describing how the environmental policy statement has been conveyed to staff, management, and other individuals having a formal role in the implementation of the EMS shall also be included.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

**111.6(3) *Aspects and impacts.*** The annual report shall identify and evaluate the actual or potential significant aspects and impacts to the environment, whether adverse or beneficial, from the planning or service area's activities, services and facilities. A description of the significant impacts to the environment that have been determined and the methodology used for this determination shall be included. Any changes that occurred or may occur in the near future that are likely to affect the identified impacts in the coming year shall be described. Such changes may include, but are not limited to, the closure or opening of facilities, other changes to the EMS's fenceline, the initiation of major new programs, and the discontinuation of a major service.

**111.6(4) *Legal and other requirements.*** The annual report shall list the legal requirements for the planning or service area's operations and facilities included in its EMS fenceline, including but not limited to, relevant environmental laws, regulations and permits, and worker health and safety regulations. A process for tracking any changes in these requirements shall be described. A brief summary of the planning area's regulatory compliance performance for the previous year, including a listing of recurring or significant violations related to the identified legal requirements and how they were or are being resolved, shall be included.

**111.6(5) *Plan components.*** The following elements shall be addressed for each of the six plan components.

*a. Objectives and targets.* This element describes the objective(s) relevant to the plan component and the targets established for achieving the objective(s).

*b. Action plan.* This element provides a plan that describes the actions necessary to achieve the objectives and targets. The plan includes the identification of the individuals and organizations responsible for carrying out specific tasks, time lines for completion of each step in the plan, and a schedule for periodically reviewing and updating, as conditions dictate, the objectives and targets.

*c. Communication and training.* This element describes the processes that have been established for internal and external communication.

(1) External communication includes reaching out to those groups and organizations that have been identified as having an interest, stake, or role in the planning or service area's ongoing EMS program. There shall also be procedures for receiving and responding to relevant communication from external interested parties.

(2) Internal communication is directed to individuals, organizations and entities that have a role or responsibility within the action plan. Internal communication includes a process to ensure that all responsible parties are familiar with the EMS and have the training necessary to capably execute their roles. A description of the training provided to responsible parties shall be included.

*d. Monitoring and measurement.* This element describes the documented process for monitoring key activities and, at a minimum, measuring performance related to each objective and target.

*e. Assessment.* This element provides documented procedures for assessing the performance of the component's action plan(s) in terms of achieving the stated objectives and targets and conformance with the overall EMS. The assessment element shall draw conclusions from the performance measurements.

*f. Reevaluation and modification.* The reevaluation and modification element is an activity that allows a planning or service area to improve and strengthen the EMS on an ongoing basis. This element considers areas where the EMS has met, exceeded, or failed to meet expectations. For each plan component, the report shall identify root causes of those outcomes and develop revised goals and activities appropriate to each.

**111.6(6) *Internal audit.*** A copy of the result of the latest internal audit that includes the date(s) it was conducted and the identity of the auditor(s) shall be provided as part of the report. An internal audit shall be conducted each state fiscal year.

**111.6(7) *External audit.*** An external audit shall occur each state fiscal year. The date of the latest external audit or the date the audit will take place, along with the identity and pertinent qualifications of the independent, third-party auditor(s) shall be provided. The results of the external audit shall be incorporated into the report. The department has a prequalification process for external auditors.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

**567—111.7(455J) Evaluation criteria.** Each annual report shall be reviewed by the council, and a determination as to whether a planning or service area's EMS is in compliance with Iowa Code section 455J.3 shall be made by October 1 of each year. Reports shall be reviewed for the following:

1. Completeness in terms of addressing all of the elements set forth in 567—111.6(455J).
2. Progress toward achieving the objectives and targets set forth in the EMS.
3. Clear demonstration of continuous improvement in terms of progress toward achieving the objectives and targets set forth in the EMS.

Upon achievement of these objectives and targets, a reevaluation and decision will be needed to verify whether a new target should be assigned to an objective or, if the objectives and targets were not achieved, what new initiatives should be incorporated into the EMS. Planning and service areas shall review procedures on a regular basis and revise as appropriate.

**567—111.8(455J) Evaluation outcomes.**

**111.8(1)** If the council determines that the annual report adequately demonstrates compliance with the requirements of Iowa Code section 455J.3, the planning or service area shall remain designated as an EMS and shall continue to be qualified for the incentives set forth in Iowa Code section 455J.5.

**111.8(2)** If the council determines that the annual report clearly demonstrates that the planning or service area's EMS is no longer in compliance with Iowa Code section 455J.3, the council may recommend to the environmental protection commission the revocation of the EMS designation. If the commission concurs with the council's recommendation, the planning or service area shall adhere to the comprehensive planning requirements in 567—Chapter 101.

**111.8(3)** Failure by a planning or service area to submit an annual report by September 1 in any year will result in revocation of the EMS designation, following which the planning or service area shall adhere to the comprehensive planning requirements in 567—Chapter 101.

These rules are intended to implement Iowa Code section 455J.4.

**ARC 9898B**

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 237A.12, the Department of Human Services proposes to amend Chapter 109, “Child Care Centers,” Iowa Administrative Code.

The proposed amendments to child care center licensing standards would:

- Change an exemption to licensing to clarify that parents may be employed by a fitness center or nonprofit organization to teach or lead a social or recreational activity instead of merely participating in it. The parent still must be immediately available and accessible on the physical premises where the care is provided. This change was enacted in 2011 Iowa Acts, House File 649, section 92. The existing language indicates that the exemption does not apply if the parent is engaged in employment while the child care is provided.

- Add language to require specific levels of physical activity for children who are in care for four hours or more each day.

- Add language to limit time children may spend viewing television, DVD, and video and using computers.

Any interested person may make written comments on the proposed amendments on or before January 3, 2012. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination,



## HUMAN SERVICES DEPARTMENT[441](cont'd)

Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 237A as amended by 2011 Iowa Acts, House File 649, section 92.

The following amendments are proposed.

ITEM 1. Amend rule **441—109.1(237A)**, definition of “Child care,” numbered paragraph 14, as follows:

14. A program offered to a child whose parent, guardian, or custodian is engaged solely in a recreational or social activity, remains immediately available and accessible on the physical premises on which the child's care is provided, and does not engage in employment while the care is provided. However, if the recreational or social activity is provided in a fitness center or on the premises of a nonprofit organization, the parent, guardian, or custodian of the child may be employed to teach or lead the activity.

ITEM 2. Amend paragraph **109.12(1)“b”** as follows:

*b.* A balance of active and quiet activities; individual and group activities; indoor and outdoor activities; and staff-initiated and child-initiated activities.

(1) Children aged two years and older who attend a program for four hours or more per day shall be scheduled to participate in at least 60 minutes of physical activity per day.

(2) At least 30 of the 60 minutes required in 109.12(1)“b”(1) shall be structured and guided physical activity. The remainder of the physical activity may be concurrent with other active play, learning, and movement activities.

ITEM 3. Adopt the following **new** paragraph **109.12(5)“i”**:

*i.* Opportunities shall be provided for freedom of movement by limiting time spent while awake in confining equipment such as cribs, infant seats, swings, high chairs, or playpens.

ITEM 4. Adopt the following **new** subrules 109.12(6) and 109.12(7):

**109.12(6) Television, DVD, and video viewing.**

*a.* Television, DVD, or video viewing shall be prohibited for children up to 24 months of age.

*b.* For children aged 24 months or older, television, DVD, or video viewing shall be limited to one hour per day.

*c.* Staff shall preview television programs, DVDs, and videos to ensure that they are age-appropriate and educational.

*d.* Viewing periods may be extended for specific events or occasions, such as a current event, holiday, or birthday celebration. Written documentation shall justify the reasons for extending the viewing period.

*e.* An alternate activity must be provided during television, DVD, or video viewing time.

**109.12(7) Computer use.** Computer use shall be limited to no more than 15-minute increments except for school-age children completing homework assignments.

**ARC 9921B****PHARMACY BOARD[657]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 124.554, the Board of Pharmacy and the Prescription Monitoring Program Advisory Council give Notice of Intended Action to amend Chapter 37, “Iowa Prescription Monitoring Program,” Iowa Administrative Code.

The amendments were approved at the November 10, 2011, regular meeting of the Board of Pharmacy. The amendments were approved by the Prescription Monitoring Program Advisory Council by electronic communications between September 16, 2011, and October 27, 2011.

The proposed amendments define “health care professional” and “practitioner’s agent” and establish criteria for the identification, authorization, and registration of a practitioner’s agent to request information from the Iowa Prescription Monitoring Program (PMP). The proposed amendments clarify circumstances that may require the PMP administrator to access program information and data to resolve issues of potentially erroneous data contained in the database. The proposed amendments regarding prohibited acts and confidentiality requirements of the current rules ensure applicability of those provisions to a practitioner’s agent and ensure that all individuals with access to the PMP and PMP data are aware of the criminal penalties for breach of confidentiality provisions and prohibited acts.

Requests for waiver or variance of the discretionary provisions of Board rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on January 3, 2012. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to [terry.witkowski@iowa.gov](mailto:terry.witkowski@iowa.gov).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 124.554 and Iowa Code sections 124.553 and 124.558 as amended by 2011 Iowa Acts, Senate File 286.

The following amendments are proposed.

ITEM 1. Adopt the following new definitions in rule **657—37.2(124)**:

“*Health care professional*” means a person who, by education, training, certification, or licensure, is qualified to provide and is engaged in providing health care to patients. “Health care professional” does not include clerical or administrative staff. “Health care professional,” other than a licensed prescriber or pharmacist, may include, but is not limited to, a certified pharmacy technician or a technician trainee, a nurse, or a medical assistant or supervised trainee such as a pharmacist-intern or student, a medical student, or a nursing student.

“*Practitioner’s agent*” means a health care professional who is employed by or under the direct supervision of a health care practitioner and who is authorized by the practitioner to access PMP information as provided in subrule 37.4(1).

ITEM 2. Amend rule 657—37.4(124) as follows:

**657—37.4(124) Access to database information.** ~~Prescription information submitted to the board for inclusion in the PMP database shall be privileged and strictly confidential and not subject to public or open records laws.~~ All information contained in the PMP database, including prescription information submitted for inclusion in the PMP database and records of requests for PMP information, shall be privileged and strictly confidential and not subject to public or open records laws. The board, council,

## PHARMACY BOARD[657](cont'd)

and PMP administrator shall maintain procedures to ensure the privacy and confidentiality of patients, prescribers, dispensers, practitioners, practitioners' agents, and patient information collected, recorded, transmitted, and maintained in the PMP database and to ensure that program information is not disclosed to persons except as provided in this rule.

**37.4(1) Prescribers and pharmacists.** A health care practitioner authorized to prescribe or dispense controlled substances may obtain PMP information regarding the practitioner's patient, or a patient seeking treatment from the practitioner, for the purpose of providing patient health care. A practitioner may authorize no more than three health care professionals to act as the practitioner's agents for the purpose of requesting PMP information regarding a practitioner's patients.

*a.* Prior to being granted access to PMP information, a practitioner or a practitioner's agent shall submit a an individual request for registration and program access. A practitioner or a practitioner's agent with Internet access may register via a secure Web site established by the board for that purpose. A practitioner without Internet access shall submit a written registration request on a form provided by the PMP administrator. A practitioner without Internet access shall not authorize a practitioner's agent to register for or to access PMP information on behalf of the practitioner. The PMP administrator shall take reasonable steps to verify the identity of a practitioner or practitioner's agent and to verify a practitioner's credentials prior to providing a practitioner or practitioner's agent with a secure login and initial password. Each practitioner or practitioner's agent registered to access PMP information shall securely maintain and use the login and password assigned to the individual practitioner or practitioner's agent. Except in an emergency when the patient would be placed in greater jeopardy by restricting PMP information access to the practitioner or practitioner's agent, a registered practitioner shall not share the practitioner's secure login and password information and shall not delegate PMP information access to another health care practitioner or to the practitioner's an unregistered agent. A registered practitioner's agent shall not delegate PMP information access to another individual.

*b.* A practitioner or practitioner's agent with Internet access may submit a request for PMP information via a secure Web site established by the board for that purpose. The requested information shall be provided to the requesting practitioner or practitioner's agent in a format established by the board and shall be delivered via the secure Web site.

*c.* No change.

*d.* A practitioner or practitioner's agent who requests and receives PMP information consistent with the requirements and intent of these rules may provide that information to another practitioner who is involved in the care of the patient who is the subject of the information. Information from the PMP database remains privileged and strictly confidential. Such disclosures among practitioners shall be consistent with these rules and federal and state laws regarding the confidentiality of patient information. The information shall be used for medical or pharmaceutical care purposes.

**37.4(2) to 37.4(6)** No change.

**37.4(7) PMP administrator access.** Other than technical, error, and administrative function reports and information needed by PMP support staff to determine that records are received and maintained in good order or to review or resolve issues of reported or suspected erroneous data as provided in rule 657—37.7(124), any other reports concerning the information received from dispensers shall only be prepared at the direction of the board, the council, or the PMP administrator. The board and the council may compile statistical reports from PMP information for use in determining the advisability of continuing the PMP and for use in preparing required reports to the governor and the legislature. The reports shall not include information that would identify any patient, prescriber, dispenser, practitioner, practitioner's agent, or other person who is the subject of the PMP information or data.

ITEM 3. Amend rule 657—37.9(124) as follows:

**657—37.9(124) Prohibited acts.** The PMP administrator shall report to the licensing board of a dispenser's or a practitioner's professional licensing board dispenser, a practitioner, or a practitioner's agent any known violation of the confidentiality provisions or the reporting requirements of the law and these rules for which the dispenser, or practitioner, or practitioner's agent is subject to disciplinary action.

## PHARMACY BOARD[657](cont'd)

**37.9(1) Confidentiality.** A pharmacy, ~~or a pharmacist, practitioner, or practitioner's agent~~ who knowingly fails to comply with the confidentiality provisions of the law or these rules or who delegates PMP information access to another individual, except ~~in an emergency situation~~ as provided in paragraph 37.4(1)"a," is subject to disciplinary action by the appropriate professional licensing board. The PMP administrator or a member of the program staff who knowingly fails to comply with the confidentiality provisions of the law or these rules is subject to disciplinary action by the board. In addition to any disciplinary action or sanctions imposed by a professional licensing board, a pharmacy, pharmacist, practitioner, practitioner's agent, PMP administrator, or member of the PMP program staff who knowingly accesses, uses, or discloses program information in violation of Iowa law or these rules is subject to criminal prosecution as provided in Iowa Code section 124.558.

**37.9(2)** No change.

ITEM 4. Amend **657—Chapter 37**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 124.551, ~~to~~ 124.552, and 124.554 to 124.557 and sections 124.553 and 124.558 as amended by ~~2009 Iowa Acts, House File 122~~ 2011 Iowa Acts, Senate File 286.

**ARC 9922B**

**PUBLIC SAFETY DEPARTMENT[661]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 103A.7, the Building Code Commissioner hereby gives Notice of Intended Action to amend Chapter 302, "State Building Code—Accessibility of Buildings and Facilities Available to the Public," Iowa Administrative Code, with the approval of the Building Code Advisory Council.

Iowa Code section 103A.7 requires that the State Building Code include reasonable provisions for "the accessibility and use by persons with disabilities and elderly persons, of buildings, structures, and facilities which are constructed and intended for use by the general public." This Iowa Code section further provides that the requirements for accessibility are to be "consistent with federal standards for building accessibility." The federal standards being referenced were originally codified in the Americans with Disabilities Act Accessibility Guidelines, published in 1994, and since 2004 these guidelines have served as the basis for Iowa's accessibility requirements for buildings and facilities available to the public.

Last year, the U.S. Department of Justice adopted new accessibility guidelines published as the 2010 Standards for Accessible Design. Under federal regulations, compliance with the federal requirements for accessibility of buildings and facilities available to the public will be required as of March 15, 2012. The amendments proposed herein would retain the required consistency between Iowa requirements for accessibility of buildings and facilities available to the public and the parallel federal requirements and would consequently avoid the possibility of construction projects' incurring significant additional costs in order to ensure compliance with two separate sets of standards for accessibility.

Any person may submit written comments regarding the proposed amendments by mail to Agency Rules Administrator, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319; by fax to (515)725-6195; or by E-mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us). Written comments must be received by 4:30 p.m. on January 3, 2012, or may be submitted at the public hearing.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

There will be a public hearing regarding these amendments at 10 a.m. on January 3, 2012, in the First Floor Public Conference Room in the State Public Safety Headquarters Building, 215 East 7th Street, Des Moines. Any interested person may speak at the hearing. Persons who wish to speak at the hearing are encouraged to notify the Agency Rules Administrator by E-mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us) or telephone at (515)725-6185 at least one day prior to the hearing.

Provisions of the State Building Code are not subject to waiver, but instead are subject to the process for considering requests for alternate materials or methods of construction as provided in Iowa Code section 103A.13.

No fiscal impact on the state is anticipated.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 103A.7 and chapter 104A.

The following amendments are proposed.

ITEM 1. Amend rule 661—302.1(103A,104A) as follows:

**661—302.1(103A,104A) Purpose and scope.** Rules 661—302.1(103A,104A) through 661—302.20(103A,104A) are intended to ensure that buildings and facilities used by the public, other than places of worship, are accessible to, and functional for, persons with disabilities. Rules 661—302.1(103A,104A) through 661—302.11(103A,104A) apply Rule 661—302.3(103A,104A) applies statewide to new construction, of buildings and facilities available to the public and to renovation, and rehabilitation projects on existing buildings and facilities when local or state building codes require compliance with standards for new construction. Rule 661—302.20(103A,104A) applies statewide to construction of multiunit residential buildings.

~~Some requirements contained in rules 661—302.1(103A,104A) through 661—302.11(103A,104A) are not readily enforceable through the plan review process and may not be enforced through this means. Any of the requirements may be enforced during inspections in jurisdictions which inspect construction projects for compliance with building code requirements. Owners and operators of buildings and facilities subject to the provisions of rules 661—302.1(103A,104A) through 661—302.11(103A,104A) are responsible for compliance with any applicable requirements contained within these rules regardless of whether those requirements are enforced through plan reviews or inspections.~~

~~Rules 661—302.2(103A,104A) through 661—302.11(103A,104A) are NOTE A: Although rule 661—302.2(103A,104A) is based upon the federal Americans with Disabilities Act Accessibility Guidelines (ADAAG) 2010 ADA Standards for Accessible Design and in many instances adopt adopts the language of ADAAG the 2010 ADA Standards for Accessible Design by reference. However, and rule 661—302.20(103A,104A) is based upon the requirements of the federal Fair Housing Act, state and local building officials charged with enforcement of these rules 661—302.2(103A,104A) through 661—302.11(103A,104A) are unable to warrant the acceptance of any interpretation of ADAAG language approval of design or construction by federal agencies or any other state. A state or local official's decision to approve a building plan under rules 661—302.2(103A,104A) through 661—302.11(103A,104A) these rules does not prevent the federal government or another state from making a different decision under ADAAG or other applicable law, notwithstanding any similarities among such laws.~~

~~NOTE A: See rule 661—302.20(103A,104A) for specific requirements within the individual dwelling units and public and common use spaces of multiple dwelling unit buildings.~~

~~NOTE B: Other federal and state laws address requirements for accessibility for persons with disabilities and may be applicable to buildings and facilities subject to rules 661—302.1(103A,104A) through 661—302.20(103A,104A). Nothing in these rules should be interpreted as limiting the applicability of other provisions of state or federal law. These provisions include, but are not limited to, the following:~~

- ~~1. Iowa Code chapter 216, the Iowa Civil Rights Act of 1965.~~
- ~~2. Iowa Code chapter 216C, which enumerates the rights of persons who are blind or partially blind and persons with physical disabilities.~~

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

3. Iowa Code chapter 321L and 661—Chapter 18, which relate to requirements for parking for persons with disabilities.
4. The federal Architectural Barriers Act of 1968 (Public Law 90-480).
5. The federal Rehabilitation Act of 1973 (Public Law 93-112).
6. The federal Fair Housing Act of 1968 (Public Law 90-284), the federal Fair Housing Amendments Act of 1988 (Public Law 100-430), and related regulations, including 24 CFR 100, Subpart D.

ITEM 2. Rescind rule 661—302.2(103A,104A) and adopt the following **new** rule in lieu thereof:

**661—302.2(103A,104A) Definitions.** The following definitions are adopted for purposes of rules 661—302.1(103A,104A) through 661—302.20(103A,104A).

“*ADA*” means the federal Americans with Disabilities Act, Public Law 101-336.

“*ADAAG*” means Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, 28 CFR Part 36, Appendix A, as revised through July 1, 1994.

“*ADASAD 2010*” means 2010 ADA Standards for Accessible Design, published by the U.S. Department of Justice, September 15, 2010. Included in the publication are accessibility standards for state and local government facilities and accessibility standards for public accommodations and commercial facilities.

NOTE: Copies of ADASAD 2010 and additional explanatory material may be downloaded from <http://www.ada.gov/regs2010/ADAREgs2010.htm>.

“*IBC 2009*” means the International Building Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041.

ITEM 3. Rescind rule 661—302.3(103A,104A) and adopt the following **new** rule in lieu thereof:

**661—302.3(103A,104A) Accessibility of buildings and facilities available to the public.** Buildings and facilities which are available to the public, other than places of worship, shall comply with one of the following:

**302.3(1)** Applicable provisions of ADASAD 2010, or

**302.3(2)** IBC 2009, Chapter 11 and applicable accessibility provisions contained in IBC 2009.

ITEM 4. Rescind and reserve rules **661—302.4(103A,104A)** to **661—302.11(103A,104A)**.

ITEM 5. Amend the implementation sentence after rule **661—302.11(103A,104A)** as follows:

Rules 661—302.1(103A,104A) through 302.11(103A,104A) to 661—302.3(103A,104A) are intended to implement Iowa Code sections 103A.7, 103A.9, and 104A.1.

## USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

December 1, 2010 — December 31, 2010	4.50%
January 1, 2011 — January 31, 2011	4.75%
February 1, 2011 — February 28, 2011	5.25%
March 1, 2011 — March 31, 2011	5.50%
April 1, 2011 — April 30, 2011	5.50%
May 1, 2011 — May 31, 2011	5.50%
June 1, 2011 — June 30, 2011	5.50%

## USURY(cont'd)

July 1, 2011 — July 31, 2011	5.25%
August 1, 2011 — August 31, 2011	5.00%
September 1, 2011 — September 30, 2011	5.00%
October 1, 2011 — October 31, 2011	4.25%
November 1, 2011 — November 30, 2011	4.00%
December 1, 2011 — December 31, 2011	4.25%

## ARC 9906B

## ENVIRONMENTAL PROTECTION COMMISSION[567]

## Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 22, “Controlling Pollution,” and Chapter 33, “Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality,” Iowa Administrative Code.

The purpose of this rule making is to ensure that certain stationary sources of carbon dioxide (CO<sub>2</sub>) emissions in Iowa are regulated in the same manner as specified in recently amended federal regulations.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 7, 2011, as **ARC 9736B**. A public hearing was held on October 11, 2011. The Department did not receive any comments at the public hearing. The Department received two sets of written comments before the close of the public comment period on October 11, 2011. The submitted comments and the Department’s response to the comments are summarized in the public responsiveness summary available from the Department. The Department did not make any changes to the adopted amendments from those published under Notice.

The U.S. Environmental Protection Agency (EPA) recently finalized regulations deferring for a three-year period the counting of CO<sub>2</sub> emissions from biological processes and materials (biogenic CO<sub>2</sub>) toward Title V and PSD permitting thresholds. Biogenic emissions of CO<sub>2</sub> include fermentation processes at ethanol plants and combustion of biomass such as wood or other vegetative matter at power plants or industrial facilities.

During this deferral period, EPA plans to work in conjunction with federal partners, technical experts, and an independent scientific panel to conduct a comprehensive scientific assessment of biogenic CO<sub>2</sub> emissions from stationary sources. At the end of the deferral period, EPA either may decide to exempt CO<sub>2</sub> emissions from biogenic sources or may instead decide to include these emissions. If EPA decides to include CO<sub>2</sub> emissions from biogenic sources, it has indicated in the preamble to the federal regulations that it will not conduct a “look-back” at facilities that, during the deferral period, did not count CO<sub>2</sub> emissions from biogenic sources toward PSD applicability.

This rule making amends the state’s Title V and PSD air quality rules so that the state rules match the federal regulations deferring biogenic CO<sub>2</sub> emissions (see references to the corresponding federal amendments in the item statements below).

Failure to adopt these amendments would make Iowa’s administrative rules more stringent than federal regulations, which is prohibited by state law (Iowa Code section 455B.133(4)). Failure to adopt these amendments would also create regulatory uncertainty for sources that emit large amounts of biogenic emissions, such as ethanol plants and landfills, because biogenic CO<sub>2</sub> emissions would have to be considered in Iowa air permitting but may not be considered in other states’ permitting.

The Department has four pending permitting projects in-house that are potentially affected by this rule making. If biogenic CO<sub>2</sub> emissions are not deferred, these projects would very likely need to go through PSD review for greenhouse gas emissions.

Item 1 amends rule 567—22.100(455B), the definitions for the Title V program.

Title V requires that an affected facility obtain a Title V operating permit. The Title V operating permit, which is renewed every five years, contains all air emission control requirements that apply to the facility, including the requirements established through construction permitting.

Specifically, Item 1 revises the definition of “subject to regulation.” The amendment to this definition is identical to the federal amendment (see 40 CFR 70.2, definition of “subject to regulation,” as amended on July 20, 2011). The amendment states that CO<sub>2</sub> emissions from biogenic sources (explained in the amendment) are deferred from counting toward Title V program applicability for a period of three years, until July 21, 2014.

Item 2 amends the introductory paragraph of rule 567—33.1(455B) to update the date of the new federal PSD amendments being implemented through this rule making.



## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Item 3 amends subrule 33.3(1), the definitions for the PSD program.

New source review (NSR) is a federal term for review and preconstruction permitting of new or modified stationary sources of air pollution. The PSD program is a component of NSR that includes procedures to ensure that air quality standards are maintained. In general, the PSD program requires that an affected facility obtain a PSD permit specifying how the facility will control emissions. The permit requires the facility to apply Best Available Control Technology (BACT), which is determined on a case-by-case basis taking into account, among other factors, the cost and effectiveness of the control. The specific nature of the project determines whether it is subject to PSD requirements for greenhouse gases (GHGs).

Specifically, Item 3 amends the definition of “subject to regulation” for the PSD program. The definition includes the definition for “tpy CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e).” The amendment to this definition is identical to the federal amendment (see 40 CFR 52.21(b)(49) as amended on July 20, 2011). The amendment states that CO<sub>2</sub> emissions from biogenic sources (explained in the amendment) are deferred from counting toward PSD program applicability for a period of three years, until July 21, 2014.

The amendments will confer a benefit to affected facilities in the state, such as ethanol plants and landfills. Several facilities with pending permitting projects are waiting to initiate construction in anticipation of final and effective amendments. Therefore, pursuant to the provisions of Iowa Code section 17A.5(2)“b”(2), the adopted amendments became effective immediately upon filing with the Administrative Rules Coordinator on November 16, 2011.

The jobs impact of these amendments cannot be determined. Insufficient information exists to determine what impact the amendments will have on private sector jobs and employment opportunities in the state. The Department requested stakeholder input and did not receive any information regarding job impacts in the state. However, affected facilities will experience reduced regulatory burden from these amendments because these facilities will not be subject to the Title V or PSD programs during the deferral period. Therefore, facilities affected by these amendments should experience a positive impact on jobs.

These amendments are intended to implement Iowa Code section 455B.133.

These amendments became effective on November 16, 2011.

The following amendments are adopted.

ITEM 1. Amend rule **567—22.100(455B)**, definition of “Subject to regulation,” numbered paragraph “2,” as follows:

2. The term “tpy CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e)” shall represent an amount of GHGs emitted and shall be computed by multiplying the mass amount of emissions (tpy) for each of the six greenhouse gases in the pollutant GHGs by the associated global warming potential of the gas published at 40 CFR Part 98, Subpart A, Table A-1, “Global Warming Potentials,” (as amended on October 30, 2009) and summing the resultant value for each to compute a tpy CO<sub>2</sub>e. For purposes of this definition, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

ITEM 2. Amend rule 567—33.1(455B), introductory paragraph, as follows:

**567—33.1(455B) Purpose.** This chapter implements the major New Source Review (NSR) program contained in Part C of Title I of the federal Clean Air Act as amended on November 15, 1990, and as promulgated under 40 CFR 51.166 and 52.21 as amended through ~~November 29, 2005~~ July 20, 2011. This is a preconstruction review and permitting program applicable to new or modified major stationary sources of air pollutants regulated under Part C of the Clean Air Act as amended on November 15, 1990. In areas that do not meet the national ambient air quality standards (NAAQS), the nonattainment NSR

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

program applies. The requirements for the nonattainment NSR program are set forth in 567—22.5(455B) and 567—22.6(455B). In areas that meet the NAAQS, the PSD program applies. Collectively, the nonattainment NSR and PSD programs are referred to as the major NSR program.

ITEM 3. Amend subrule **33.3(1)**, definition of “Subject to regulation,” numbered paragraph “2,” as follows:

2. For purposes of paragraphs “3,” “4,” and “5,” the term “tpy CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e)” shall represent an amount of GHGs emitted and shall be computed as follows:

(a) Multiply the mass amount of emissions (tpy) for each of the six greenhouse gases in the pollutant GHGs by the associated global warming potential of the gas published at 40 CFR Part 98, Subpart A, Table A-1, “Global Warming Potentials,” (as amended on October 30, 2009), ~~and~~. For purposes of this definition, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

(b) Sum the resultant value from paragraph (a) for each gas to compute a tpy CO<sub>2</sub>e.

[Filed Emergency After Notice 11/16/11, effective 11/16/11]

[Published 12/14/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/11.

**ARC 9897B**

**RACING AND GAMING COMMISSION[491]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 99D.7, the Racing and Gaming Commission hereby amends Chapter 8, “Wagering and Simulcasting,” Iowa Administrative Code.

This amendment establishes a new rule for advance deposit wagering to comply with 2011 Iowa Acts, Senate File 526, portions of which were effective July 1, 2011.

Notice of Intended Action including this amendment was published in the Iowa Administrative Bulletin as **ARC 9808B** on October 19, 2011. A public hearing was held on November 8, 2011, and no comments were received. This rule making was reviewed by the Administrative Rules Review Committee on November 1, 2011.

The Commission meets every six weeks; to provide prompt implementation of this rule and the enabling statute, the Commission adopted this rule at its November 10, 2011, meeting, prior to the completion of the Notice period. Pursuant to Iowa Code section 17A.4(3), the Commission finds that notice and public participation are impracticable and contrary to the public interest because of the need to promptly implement the requirements of 2011 Iowa Acts, Senate File 526.

The Commission finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the amendment should be waived and the amendment made effective upon filing with the Administrative Rules Coordinator. This amendment confers a benefit to the public by implementing the changes to be effective immediately at Prairie Meadows and to comply with 2011 Iowa Acts, Senate File 526.

After analysis and review of this rule making, no adverse impact on jobs has been found.

This amendment is intended to implement Iowa Code chapter 99D.

This amendment became effective November 15, 2011.

The following amendment is adopted.

## RACING AND GAMING COMMISSION[491](cont'd)

Adopt the following new rule 491—8.6(99D):

**491—8.6(99D) Advance deposit wagering.****8.6(1) Definitions.**

“*Account*” means an account approved by the commission for advance deposit wagering with a complete record of credits, wagers and debits established by a licensee account holder and managed by a licensee or ADWO.

“*Advance deposit wagering*” means a method of pari-mutuel wagering in which an individual may establish an account, deposit money into the account, and use the account balance to pay for pari-mutuel wagering.

“*Advance deposit wagering center*” means an actual location, equipment, and staff of a licensee, ADWO, or both involved in the management, servicing and operation of advance deposit wagering for the licensee.

“*Advance deposit wagering operator*” or “*ADWO*” means an advance deposit wagering operator licensed by the commission who has entered into an agreement with the licensee of the horse racetrack in Polk County and the Iowa Horsemen’s Benevolent and Protective Association to provide advance deposit wagering.

“*Credits*” means all positive inflows of money to an account.

“*Debits*” means all negative outflow of money from an account.

“*Deposit*” means a payment of money into an account.

“*Licensee*” means a horse racetrack located in Polk County operating under a license issued by the commission.

“*Licensee account holder*” means any individual at least 21 years of age who successfully completed an application and for whom the licensee or ADWO has opened an account. “*Licensee account holder*” does not include any corporation, partnership, limited liability company, trust, estate or other formal or nonformal entity.

“*Proper identification*” means a form of identification accepted in the normal course of business to establish that the person making a transaction is a licensee account holder.

“*Secure personal identification code*” means an alpha-numeric character code provided by a licensee account holder as a means by which the licensee or ADWO may verify a wager or account transaction as authorized by the licensee account holder.

“*Source market fee*” or “*host fee*” means the part of a wager made on any race by a person who is a licensee account holder that is returned to the licensee and the Iowa Horsemen’s Benevolent and Protective Association pursuant to the terms of a negotiated agreement as required by these rules.

“*Withdrawal*” means a payment of money from an account by the licensee or ADWO to the licensee account holder when properly requested by the licensee account holder.

**8.6(2) Authorization to conduct advance deposit wagering.**

a. A licensee may request authorization from the commission to conduct advance deposit wagering pursuant to 2011 Iowa Acts, Senate File 526, section 7, and these rules. As part of the request, the licensee shall submit a detailed plan of how its advance deposit wagering system would operate. The commission may require changes in a proposed plan of operations as a condition of granting a request. No subsequent changes in the system’s operation may occur unless ordered by the commission or until approval is obtained from the commission after it receives a written request.

b. The commission may conduct investigations or inspections or request additional information from the licensee as the commission deems appropriate in determining whether to allow the licensee to conduct advance deposit wagering.

c. The licensee shall establish and manage an advance deposit wagering center.

d. The commission may issue an ADWO license to an entity that enters into an agreement with the commission, licensee, and the Iowa Horsemen’s Benevolent and Protective Association. The terms of any ADWO’s license shall include but not be limited to:

(1) Any source market fees and host fees to be paid on any races subject to advance deposit wagering.

## RACING AND GAMING COMMISSION[491](cont'd)

- (2) An annual ADWO license fee in an amount to be determined by the commission.
  - (3) Completion of all necessary background investigations.
  - (4) Acceptance of wagers on live races conducted at the horse racetrack in Polk County from all of its licensee account holders.
  - (5) A bond or irrevocable letter of credit on behalf of the ADWO to be determined by the commission.
  - (6) A detailed description and certification of systems and procedures used by the ADWO to validate the identity and age of licensee account holders and to validate the legality of wagers accepted.
  - (7) Certification of prompt commission access to all records relating to licensee account holder identity and age in hard-copy or standard electronic format acceptable to the commission.
  - (8) Certification of secure retention of all records related to advance deposit wagering and accounts for a period of not less than three years or such longer period as specified by the commission.
  - (9) Utilization and communication of pari-mutuel wagers to a pari-mutuel system meeting all requirements for pari-mutuel systems employed by licensed racing facilities in Iowa.
- e.* Commission access to and use of information concerning advance deposit wager transactions and licensee account holders shall be considered proprietary, and such information shall not be disclosed publicly except as may be required pursuant to statute or court order or except as part of the official record of any proceeding before the commission. This requirement shall not prevent the sharing of this information with other pari-mutuel regulatory authorities or law enforcement agencies for investigative purposes.
- f.* For each advance deposit wager made for an account by telephone, the licensee or ADWO shall make a voice recording of the entire transaction and shall not accept any such wager if the voice-recording system is inoperable. Voice recordings shall be retained for not less than six months and shall be made available to the commission for investigative purposes.

**8.6(3) *Establishing an account.***

- a.* A person must have an established account in order to place advance deposit wagers. An account may be established in person at the licensee's facility or with the ADWO by mail or electronic means. For establishing an account, the application must be signed or otherwise authorized in a manner acceptable to the commission and shall include: the applicant's full legal name, principal residence address, telephone number, and date of birth and any other information required by the commission.
- b.* Each application submitted will be subject to electronic verification with respect to the applicant's name, principal residence address and date of birth by either a national, independent individual reference service company or by means of a technology which meets or exceeds the reliability, security, accuracy, privacy and timeliness provided by individual reference service companies. An applicant's social security number may be necessary for completion of the verification process and for tax reporting purposes. If there is a discrepancy between the application submitted and the information provided by the electronic verification or if no information on the applicant is available from such electronic verification, another individual reference service may be accessed or another technology meeting the requirements described above may be used to verify the information provided. If these measures prove unsatisfactory, then the applicant will be contacted and given instructions as to how to resolve the matter.
- c.* The identity of a licensee account holder must be verified via electronic means or copies of other documents before the licensee account holder may place an advance deposit wager.
- d.* Each account shall have a unique identifying account number. The identifying account number may be changed at any time by the licensee or ADWO provided that the licensee or ADWO informs the licensee account holder in writing prior to the change.
- e.* The applicant shall provide the licensee or ADWO with an alpha-numeric code to be used as a secure personal identification code when the licensee account holder is placing an advance deposit wager. The licensee account holder has the right to change this code at any time.
- f.* The licensee account holder shall receive at the time the account is approved a unique account identification number; a copy of the advance deposit wagering rules and such other information and

## RACING AND GAMING COMMISSION[491](cont'd)

material pertinent to the operation of the account; and such other information as the licensee, ADWO or commission may deem appropriate.

g. The account is nontransferable.

h. The licensee or ADWO may close or refuse to open an account for what it deems good and sufficient reason and shall order an account closed if it is determined that information used to open an account was false or that the account has been used in violation of these rules or the licensee's or ADWO's terms and conditions.

**8.6(4) *Operation of an account.*** The ADWO shall submit operating procedures with respect to licensee account holder accounts for commission approval.

[Filed Emergency 11/15/11, effective 11/15/11]

[Published 12/14/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/11.

## ARC 9925B

## EDUCATIONAL EXAMINERS BOARD[282]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," Iowa Administrative Code.

This amendment addresses the issue of prospective interns who are unable to secure a paid intern position. In order for a person to teach on an intern license, the person must hold a paid position as an intern. There has been an increase in interns who are unable to secure paid positions, most likely as a result of the slow economy.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 7, 2011, as **ARC 9744B**. A public hearing on the amendment was held on Wednesday, September 28, 2011. Four people attended the public hearing, and written comment was also received. The public comment stated that it would be cumbersome for an intern, especially in a rural area, to secure 60 percent of the intern's substituting assignments in the intern's endorsement area. The Board decided to remove that requirement from the rule making.

After analysis and review of this rule making, no adverse impact on jobs has been found. This rule promotes training for teachers and recruits high quality individuals to the education profession.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective January 18, 2012.

The following amendment is adopted.

Amend subrule 13.9(7) as follows:

**13.9(7)** *Requirements to obtain the initial license if the teacher intern does not complete the internship year:*

a. An initial license shall be issued upon application provided that the teacher intern has met ~~all~~ of the ~~following~~ requirements for one of the following options:

(1) Option #1:

~~a. 1.~~ Successful completion of the coursework and competencies in the teacher intern program approved by the state board of education; and

~~b. 2.~~ Verification by a college or university that the teacher intern successfully completed the college's or university's state-approved student teaching requirements; and

~~c. 3.~~ Recommendation by a college or university offering an approved teacher intern program that the individual is eligible for an initial license.

(2) Option #2:

1. Successful completion of the coursework and competencies in the teacher intern program approved by the state board of education; and

2. Verification by the approved teacher intern program that the teacher intern successfully completed 40 days of paid substitute teaching; and

3. Verification by the teacher intern program that the teacher intern successfully completed 40 days of co-teaching; and

4. Recommendation by the approved teacher intern program that the individual is eligible for an initial license.

~~d. b.~~ At the board's request, the teacher intern shall provide to the board information including, but not limited to, the teacher intern selection and preparation program, institutional support, local school district mentor, and local school district support.

[Filed 11/22/11, effective 1/18/12]

[Published 12/14/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/11.

**ARC 9901B****EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 21, "Community Colleges," Iowa Administrative Code.

This amendment implements sections 15 to 18 of 2011 Iowa Acts, Senate File 470, which authorizes the Department to approve a provider of a course for drinking drivers offered outside this state.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the August 24, 2011, Iowa Administrative Bulletin as **ARC 9686B**. Public comments were allowed until 4:30 p.m. on September 13, 2011. A public hearing was held on that date and no persons attended. No written or oral comments were received. This amendment is identical to that published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement 2011 Iowa Acts, Senate File 470, sections 15 to 18.

This amendment shall become effective January 18, 2012.

The following amendment is adopted.

Amend rule 281—21.31(321J) as follows:

**281—21.31(321J) Course.**

**21.31(1)** A course provided ~~according to~~ in accordance with Division III of this chapter shall be offered on a regular basis at each community college or by a substance abuse treatment program licensed under Iowa Code chapter 125, ~~and may be offered at a state correctional facility listed in Iowa Code section 904.102.~~ However, a community college shall not be required to offer the course if a substance abuse treatment program licensed under Iowa Code chapter 125 offers the course within the merged area served by the community college.

**21.31(2)** A course provided in accordance with Division III of this chapter may be offered at a state correctional facility listed in Iowa Code section 904.102.

**21.31(3)** A course provided in accordance with Division III of this chapter may be offered by a provider in another state when the course and its provider are approved by the department of education pursuant to 2011 Iowa Acts, Senate File 470.

**21.31(4)** Enrollment in the course is not limited to persons ordered to enroll, attend, and successfully complete the course required under Iowa Code sections 321J.1 and 321J.17, subsection 2. However, any person under the age of 18 who is required to attend the courses for violation of Iowa Code section 321J.2 or 321J.17 must attend a course offered by a substance abuse treatment program licensed under Iowa Code chapter 125.

**21.31(5)** Any instructional course shall be approved by the department of education in consultation with the community colleges, substance abuse treatment programs licensed under Iowa Code chapter 125, the Iowa department of public health, and the Iowa department of corrections. Each course of instruction shall establish the following:

~~1. a.~~ An understanding that alcohol-related problems could happen to anyone and that a person's drinking choices matter. The course illustrates common views of society that prevent people from taking drinking choices seriously. Research is presented to challenge common views with an understanding that alcohol problems are related to lifestyle choices.

~~2. b.~~ An understanding that specific low-risk choices will help reduce the risk of experiencing alcohol-related problems at any point in life. The course presents research-based, low-risk guidelines.

~~3. c.~~ Methods of providing support for making low-risk choices.

~~4. d.~~ An accurate description of the progression of drinking to the development of alcoholism to help people weigh the risk involved with high-risk drinking and to see how high-risk choices may jeopardize their lives and the lives of others.

EDUCATION DEPARTMENT[281](cont'd)

~~5. e.~~ Opportunities to develop a specific plan of action to follow through with low-risk choices. A list of community resources is provided for ongoing support and treatment as needed.

[Filed 11/16/11, effective 1/18/12]

[Published 12/14/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/11.

## **ARC 9902B**

### **EDUCATION DEPARTMENT[281]**

#### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 22, "Senior Year Plus Program," Iowa Administrative Code.

The amendments conform to 2011 Iowa Acts, House File 645, sections 14 and 15. Item 1 reflects section 14 of 2011 Iowa Acts, House File 645, which expands the criteria by which a student under competent private instruction may be deemed "proficient" under Iowa Code section 261E.3, subsection 1, paragraph "e." Items 2 and 3 amend the definition of and details regarding regional academies pursuant to section 15 of 2011 Iowa Acts, House File 645.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the October 5, 2011, Iowa Administrative Bulletin as **ARC 9791B**. Public comments were allowed until 4:30 p.m. on October 25, 2011. A public hearing was held on that date at which no person appeared. No written or oral comments were received.

These amendments are identical to those published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 261E.3(1)"e" as amended by 2011 Iowa Acts, House File 645, section 14, and Iowa Code section 261E.9 as amended by 2011 Iowa Acts, House File 645, section 15.

These amendments shall become effective January 18, 2012.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [22.2(2), 22.26, 22.27] is being omitted. These amendments are identical to those published under Notice as **ARC 9791B**, IAB 10/5/11.

[Filed 11/16/11, effective 1/18/12]

[Published 12/14/11]

[For replacement pages for IAC, see IAC Supplement 12/14/11.]

## **ARC 9903B**

### **EDUCATION DEPARTMENT[281]**

#### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 32, "High School Equivalency Diploma," Iowa Administrative Code.

The amendment in Item 1 reflects a new test series from the General Educational Development Testing Service that changed the scoring of the tests. The amendments in Items 2 to 4 reflect the provisions in Iowa Code section 259A.2 and the enactment of 2011 Iowa Acts, Senate File 470, section 7, both of which authorize the State Board of Education to establish by rule the amount of fees. The fees have not been raised in over 20 years.

An agencywide waiver provision is provided in 281—Chapter 4.



## EDUCATION DEPARTMENT[281](cont'd)

Notice of Intended Action was published in the August 24, 2011, Iowa Administrative Bulletin as **ARC 9683B**. Public comments were allowed until 4:30 p.m. on September 13, 2011. A public hearing was held on that date at which no person appeared. No written or oral comments were received. These amendments are identical to those published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 259A as amended by 2011 Iowa Acts, Senate File 470, section 7.

These amendments shall become effective January 18, 2012.

The following amendments are adopted.

ITEM 1. Amend rule 281—32.3(259A) as follows:

**281—32.3(259A) Minimum score.** Applicants shall make a minimum standard score of ~~35~~ 410 on each test and an average standard score of ~~45~~ 450 on all five of the General Educational Development Tests.

ITEM 2. Amend rule 281—32.5(259A), introductory paragraph, as follows:

**281—32.5(259A) Retest.** Any applicant not achieving the minimum standard test scores as defined in rule 281—32.3(259A), upon payment of a ~~\$5~~ \$10 fee, shall be permitted to make application for retest and scoring of the retest, provided that one of the following conditions is met:

ITEM 3. Amend rule 281—32.6(259A) as follows:

**281—32.6(259A) Application fee.** The applicant or supporting agency shall pay an application fee of ~~\$20~~ \$25. This fee shall be paid to the official Iowa General Educational Development Testing Agency and shall allow for initial testing and scoring of the initial testing of the eligible candidate with the five General Educational Development Tests.

This rule is intended to implement Iowa Code sections 259A.2 and 259A.5.

ITEM 4. Adopt the following new rule 281—32.7(259A):

**281—32.7(259A) Diploma, transcript, verification fees.** Upon payment of \$10 to the Iowa department of education, the department shall prepare and issue a high school equivalency diploma to an applicant who has achieved the minimum and average scores established in rule 281—32.3(259A). Upon payment of \$10 to the Iowa department of education, the department shall prepare and issue a copy of an applicant's transcript to the applicant or person authorized by the applicant to request the transcript. Upon payment of \$10 to the Iowa department of education, the department shall prepare and issue a verification that an applicant has earned a high school equivalency diploma to the applicant or person authorized by the applicant to request the verification.

[Filed 11/16/11, effective 1/18/12]

[Published 12/14/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/11.

**ARC 9904B**

**EDUCATION DEPARTMENT[281]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 64, "Child Development Coordinating Council," Iowa Administrative Code.

The amendment conforms to 2011 Iowa Acts, House File 645, section 18, expanding the use of moneys received pursuant to Iowa Code section 279.51.

An agencywide waiver provision is provided in 281—Chapter 4.

## EDUCATION DEPARTMENT[281](cont'd)

Notice of Intended Action was published in the October 5, 2011, Iowa Administrative Bulletin as **ARC 9792B**. Public comments were allowed until 4:30 p.m. on October 25, 2011. A public hearing was held on that date at which no person appeared. No written or oral comments were received.

This amendment is identical to that published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 279.51(2) as amended by 2011 Iowa Acts, House File 645, section 18.

This amendment shall become effective January 18, 2012.

The following amendment is adopted.

Amend rule 281—64.15(256A,279) as follows:

**281—64.15(256A,279) Grantee responsibilities.**

**64.15(1)** The grantee shall maintain records which include but are not limited to:

- ~~1. a.~~ Information on children and families served.
- ~~2. b.~~ Direct services provided to children.
- ~~3. c.~~ Record of expenditures.
- ~~4. d.~~ Other appropriate information specified by the council necessary to the overall evaluation.

~~5. 64.15(2)~~ Continuation programs shall participate in the Self-Study and Accreditation Program of the National Academy of Early Childhood Programs. Programs shall have two years from the date of initial funding to complete the self-study process. Programs shall have three years from the date of initial funding to attain accreditation. Programs unable to attain accreditation by the end of the three-year period may apply for a waiver of accreditation by March 15 of the third year. Waivers shall be awarded at the discretion of the council. Programs not attaining accreditation or not receiving a waiver of accreditation will be terminated.

~~6. 64.15(3)~~ New/expansion programs shall participate in the Self-Study and Accreditation Program of the National Academy of Early Childhood Programs during their first year of council funding. New/expansion programs shall be granted a waiver of accreditation during their first year of funding. New/expansion programs must complete self-study and attain accreditation during their second year of funding. Programs not able to attain accreditation during their second year may apply for a waiver of accreditation by March 15 of the current fiscal year. Waivers shall be granted at the discretion of the council. Programs not attaining accreditation or not receiving waivers will be terminated.

**64.15(4)** Grantees shall provide quarterly reports that include information detailing progress toward goals and objectives, expenditures and services provided on forms provided for those reports. Failure to submit reports by the due date shall result in suspension of financial payments to the grantee until the time that the report is received. No new awards shall be made for continuation programs where there are delinquent reports from prior grants.

**64.15(5)** Grantees may direct the use of moneys received to serve any qualifying child ranging in age from three years old to five years old, regardless of the age of population indicated on the grant request in the grantee's initial year of application. A grantee is encouraged to consider the degree to which the program complements existing local programs and services for three-year-old, four-year-old, and five-year-old at-risk children, including other child care and preschool services, services provided through a school district, and services available through an area education agency.

[Filed 11/16/11, effective 1/18/12]

[Published 12/14/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/11.

**ARC 9905B****EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 102, "Procedures for Charging and Investigating Incidents of Abuse of Students by School Employees," Iowa Administrative Code.

The amendment conforms to 2011 Iowa Acts, House File 645, section 95, requiring certain duties of the board of directors of a school district and the authorities in charge of an accredited nonpublic school when an employee is under investigation for an allegation of abuse under this chapter and when a finding is made that an employee's conduct constitutes a crime.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the October 5, 2011, Iowa Administrative Bulletin as **ARC 9794B**. Public comments were allowed until 4:30 p.m. on October 25, 2011. A public hearing was held on that date at which no person appeared. One written comment was received that was representative of several oral comments expressed at the annual training of Level One investigators. School administrators expressed concern about the waste of educational time and resources involved in placing on leave an employee before the employee is determined to have abused a student. The Department acknowledges this concern, but the underlying legislation is clear that schools "shall place on administrative leave a school employee who is the subject of an investigation of an alleged incident of abuse of a student conducted in accordance with" this chapter of rules. (At its regular meeting on November 1, 2011, the Administrative Rules Review Committee unanimously made a general referral of this rule making to the General Assembly.)

This amendment is identical to that published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 280.17 as amended by 2011 Iowa Acts, House File 645, section 95.

This amendment shall become effective January 18, 2012.

The following amendment is adopted.

Adopt the following new subrules 102.5(5) and 102.5(6):

**102.5(5)** Place on administrative leave a school employee who is the subject of an investigation under this chapter of an alleged incident of physical or sexual abuse, once the Level One investigator has determined that the written complaint is investigable under rule 281—102.3(280).

**102.5(6)** Report to the board of educational examiners the results of an investigation that finds that the school employee's conduct constitutes a crime.

[Filed 11/16/11, effective 1/18/12]

[Published 12/14/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/11.

**ARC 9915B****ENVIRONMENTAL PROTECTION COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455B.105, 455B.113 and 455B.173, the Environmental Protection Commission hereby amends Chapter 40, "Scope of Division—Definitions—Forms—Rules of Practice," Chapter 41, "Water Supplies," Chapter 42, "Public Notification, Public Education, Consumer Confidence Reports, Reporting, and Record Maintenance," Chapter 43, "Water Supplies—Design and Operation," and Chapter 83, "Laboratory Certification," Iowa Administrative Code.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

In January 2006, the U.S. Environmental Protection Agency (EPA) promulgated two new significant federal rules pertaining to drinking water: the Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2 DBPR) and the Long-Term 2 Enhanced Surface Water Treatment Rule (LT2 ESWTR). In addition, other changes, primarily in analytical methods, were made between January 2004 and March 2007 to existing federal drinking water rules. States are expected to incorporate these federal rule provisions into state program rules in order to maintain primacy in the drinking water program. These amendments will accomplish that end. In addition, other amendments to the Department's drinking water rules are included.

The changes are summarized below by chapter.

Chapter 40: The amendments add a reference to Chapter 38 and remove a reference to Chapter 47 from the rule pertaining to the scope of the division (Chapters 38 and 40 contain private and public drinking water supply rules); add definitions for the following: bag filters, bank filtration, cartridge filters, combined distribution system, finished water, flowing stream, GAC20, lake/reservoir, locational running annual average (LRAA), membrane filtration, plant intake, presedimentation, significant deficiency, two-stage lime softening, uncovered finished water storage facility, and wholesale system; amend definitions of consecutive public water supply, GAC10, nontransient noncommunity water system, and Ten States Standards; correct the name of the University Hygienic Laboratory to State Hygienic Laboratory; and correct a typographic error.

Chapter 41: The amendments require systems collecting at least six routine total coliform samples to do so on separate days to meet the federal rule; amend analytical methods; adopt Stage 2 DBPR and rescind parts of the existing Stage 1 disinfectants/disinfection byproducts rule that are no longer applicable; update the uranium detection limit; and make other minor corrections.

Chapter 42: The amendments include the public notification and consumer confidence report requirements for the new LT2 ESWTR and Stage 2 DBPR.

Chapter 43: The amendments include the requirement of the Department to maintain a list of certified operators; update the construction standards to the 2007 edition of Ten States Standards and 2010 American Water Works Standards; clarify the duration of a construction permit; update the best available technology for disinfection byproducts; require at least 0.5 log inactivation of *Giardia lamblia* cysts in treatment of surface or influenced groundwater sources; clarify CT ratio requirements; include the requirements for the new LT2 ESWTR and Stage 2 DBPR; remove outdated Stage 1 DBPR requirements; adopt the optimization goals for turbidity; adopt new CT tables for *Cryptosporidium* treatment; and correct rule citations.

Chapter 83: The amendments rescind a reference to Chapter 47; correct the name of the University Hygienic Laboratory to State Hygienic Laboratory; correct certification of SHL to be acceptable to EPA; update the drinking water disinfection byproduct certification requirements from Stage 1 DBPR to Stage 2 DBPR.

These chapters and their amendments were reviewed by the water supply technical advisory group at a meeting held on January 27, 2011. The group is comprised of individuals representing a wide variety of water supply stakeholders, including professional drinking water organizations, certified operators, certified environmental laboratories, environmental interests, public water supplies, consulting engineers, and other state agencies. A second meeting with the group was held on June 21, 2011, to review the jobs impact statement, fiscal impact statement, and Governor's preclearance form.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 7, 2011, as **ARC 9737B**. One public hearing was held, and two letters of support for the rule making were received during the public comment period. The rule making was also presented to the Administrative Rules Review Committee (ARRC) on October 11, 2011. Paragraph 43.3(3)"a" in Item 41 was changed as a result of the comments received from the ARRC members. The third sentence was changed to include delays due to exceptional weather as well as winter season delays. The fourth sentence was changed to clarify when an extension to a permit may be issued in a multiphase project. Paragraph 43.3(3)"a" now reads as follows:

"a. *Construction permit issuance conditions.* A permit to construct shall be issued by the director if the director concludes from the application and specifications submitted pursuant to 43.3(4) and

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

567—40.4(455B) that the project will comply with the rules of the department. The construction of the project must begin within one year from the date the permit was issued; if it is not, the permit is no longer valid. If construction is ongoing and continuous (aside from delays due to winter or exceptional weather) and the permitted project cannot be completed within one year, the permit shall remain valid until the project is completed. The department may grant an extension of the permit for a multiphase project, for a maximum two additional years.”

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 17A.3(1)“b,” 455B.113 to 455B.115, 455B.171 to 455B.188, and 455B.190 to 455B.192.

These amendments will become effective on January 18, 2012.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 40 to 43, 83] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 9737B**, IAB 9/7/11.

[Filed 11/18/11, effective 1/18/12]

[Published 12/14/11]

[For replacement pages for IAC, see IAC Supplement 12/14/11.]

**ARC 9926B****INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 505.8 and chapter 508, the Iowa Insurance Division hereby adopts new Chapter 96, “Synthetic Guaranteed Investment Contracts,” Iowa Administrative Code.

The rules in Chapter 96 prescribe the terms and conditions under which life insurance companies may issue group annuity contracts and other agreements that in whole or in part establish the insurer’s obligation by reference to a segregated portfolio of assets that is not owned by the insurer; the essential operational features of the segregated portfolio of assets; and the reserve requirements for these group annuity contracts and agreements.

A waiver provision is provided in subrule 96.6(2).

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 19, 2011, as **ARC 9815B**. Comments regarding these rules were to be received during the comment period and at the public hearing on November 8, 2011. No public comment was received, and these rules are identical to those published under Notice of Intended Action.

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement Iowa Code section 505.8 and chapter 508.

These rules will become effective January 18, 2012.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 96] is being omitted. These rules are identical to those published under Notice as **ARC 9815B**, IAB 10/19/11.

[Filed 11/23/11, effective 1/18/12]

[Published 12/14/11]

[For replacement pages for IAC, see IAC Supplement 12/14/11.]

## ARC 9910B

## PHARMACY BOARD[657]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 6, “General Pharmacy Practice,” Iowa Administrative Code.

The amendment clarifies the required placement of a notice informing patients that the pharmacist is required to discuss with the patient any new prescriptions dispensed to the patient. The amendment also defines the instances when patient counseling is required.

Requests for waiver or variance of the discretionary provisions of Board rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the October 5, 2011, Iowa Administrative Bulletin as **ARC 9787B**. The Board received no written comments regarding the proposed amendment. The adopted amendment is identical to that published under Notice.

The amendment was approved during the November 10, 2011, meeting of the Board of Pharmacy.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 155A.13.

This amendment will become effective on January 18, 2012.

The following amendment is adopted.

Amend rule 657—6.14(155A) as follows:

**657—6.14(155A) Patient counseling and instruction.** Every general pharmacy located in Iowa shall post in ~~the every~~ prescription pickup area, including in every drive-through prescription pickup lane, in a manner clearly visible to patients, a notice that Iowa law requires the pharmacist to discuss with the patient any new prescriptions dispensed to the patient. The board shall provide a general pharmacy with the required signage. A pharmacy that provides no direct patient access to the pharmacy department, commonly referred to as a “closed-door pharmacy,” shall not be required to post the counseling notice.

**6.14(1) Counseling required.** Upon receipt of a new prescription drug order, or upon receipt of a change in drug therapy including but not limited to a change of dose, directions, or drug formulation, and following a prospective drug use review pursuant to 657—8.21(155A), a pharmacist shall counsel each patient or patient’s caregiver. An offer to counsel shall not fulfill the requirements of this rule. Patient counseling shall be on matters which, in the pharmacist’s professional judgment, will enhance or optimize drug therapy. Appropriate elements of patient counseling may include:

*a. to j.* No change.

**6.14(2) to 6.14(6)** No change.

[Filed 11/16/11, effective 1/18/12]

[Published 12/14/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/11.

## ARC 9911B

## PHARMACY BOARD[657]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 7, “Hospital Pharmacy Practice,” Iowa Administrative Code.

The amendments clarify the definition of a hospital pharmacy to which the chapter applies and clarify the processes and security requirements for a verbal order for the administration of a prescription drug to a patient in a hospital. The amendments also organize subrule 7.8(3) into distinct paragraphs and identify the subject of each of the paragraphs with catchwords.

## PHARMACY BOARD[657](cont'd)

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the October 5, 2011, Iowa Administrative Bulletin as **ARC 9788B**. The Board received no written comments regarding the proposed amendments. The adopted amendments are identical to those published under Notice.

The amendments were approved during the November 10, 2011, meeting of the Board of Pharmacy. After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 124.306, 124.308, and 155A.13. These amendments will become effective on January 18, 2012.

The following amendments are adopted.

ITEM 1. Amend rule 657—7.1(155A) as follows:

**657—7.1(155A) Purpose and scope.** Hospital pharmacy means and includes a pharmacy licensed by the board and located within any hospital, health system, institution, or establishment which maintains and operates organized facilities for the diagnosis, care, and treatment of ~~human~~ illnesses to which ~~persons~~ patients may or may not be admitted for overnight stay at the facility. A hospital is a facility licensed pursuant to Iowa Code chapter 135B. This chapter does not apply to a pharmacy located within such a facility for the purpose of providing outpatient prescriptions. A pharmacy providing outpatient prescriptions is and shall be licensed as a general pharmacy subject to the requirements of 657—Chapter 6. The requirements of these rules for hospital pharmacy practice apply to all hospitals, regardless of size or type, and are in addition to the requirements of 657—Chapter 8 and other rules of the board relating to services provided by the pharmacy.

ITEM 2. Amend subrule 7.8(3) as follows:

**7.8(3) Medication orders.** Except as provided in subrule 7.8(14) ~~or this subrule~~, a pharmacist shall receive a copy of ~~the an~~ original written medication order for review except when the prescriber directly enters the medication order into an electronic medical record system or when the prescriber issues a verbal medication order directly to a registered nurse or pharmacist who then enters the order into an electronic medical record system.

a. Verbal order. The use of verbal orders shall be minimized. All verbal orders shall be read back to the prescriber, and the read back shall be documented with or on the order.

b. Written order not entered by prescriber. If an individual other than the prescriber enters a medication order into an electronic medical record system from an original written medication order, the pharmacist shall review and verify the entry against the original written order before the drug is dispensed except for emergency use, when the pharmacy is closed, ~~or when the original order is a verbal order from the prescriber to the registered nurse or pharmacist~~, or as provided in rule 657—7.7(155A).

c. Order entered when pharmacy closed. When the pharmacy is closed, a registered nurse or pharmacist may enter a medication order into an electronic medical record system for the purpose of creating an electronic medication administration record and a pharmacist shall verify the entry against the original written medication order, if such written order exists, as soon as practicable.

d. System security. Hospitalwide and pharmacy stand-alone computer systems shall be secure against unauthorized entry. System login or access credentials issued to an authorized system user shall not be shared or disclosed to any other individual.

e. Abbreviations and chemical symbols on orders. The use of abbreviations and chemical symbols on medication orders shall be discouraged but, if used, shall be limited to abbreviations and chemical symbols approved by the appropriate patient care committee.

[Filed 11/16/11, effective 1/18/12]

[Published 12/14/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/11.

**ARC 9912B****PHARMACY BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy hereby amends Chapter 8, “Universal Practice Standards,” Chapter 10, “Controlled Substances,” Chapter 21, “Electronic Data in Pharmacy Practice,” and Chapter 23, “Long-Term Care Pharmacy Practice,” Iowa Administrative Code.

The amendments clarify the required elements of a valid prescription regardless of the method used to generate or prepare the prescription or the means of transmission or delivery of the prescription to the dispensing pharmacy. The amendments identify the requirements for a written prescription, for an oral prescription, for a prescription transmitted to a pharmacy via facsimile, and for a prescription that is electronically prepared, signed, and transmitted to the pharmacy. Additional requirements are identified for prescriptions that are electronically prepared but subsequently printed or transmitted to the pharmacy via facsimile, and a clear distinction is made between “electronic transmission” and “facsimile transmission” by defining those terms. Other new and amended definitions in Chapter 21 establish the difference between an “electronically prepared prescription” and an “electronic prescription” and clarify the definition of “electronic signature.” The requirements for electronic prescribing of controlled substances, as established by the federal Drug Enforcement Administration (DEA), are addressed, and appropriate amendments are adopted to authorize the electronic prescribing of controlled substances pursuant to DEA requirements. Record-keeping requirements for electronically prepared prescriptions, electronic prescriptions, and prescriptions transmitted via facsimile are identified. The requirements for identification of the prescriber’s agent who completes the transmission of a prescription to a pharmacy are clarified to include the first and last names and the title of the prescriber’s agent.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the August 10, 2011, Iowa Administrative Bulletin as **ARC 9671B**. The Board received written comments regarding the proposed amendments. Comments from the Iowa Osteopathic Medical Association indicated that osteopathic physicians who reviewed the proposed amendments found those amendments acceptable. One pharmacist suggested that some of the language regarding prescriptions and printed prescriptions in the proposed amendments appeared contradictory. The pharmacist also expressed concerns regarding a prescriber’s electronic signature on a prescription that is transmitted to the pharmacy via facsimile, the responsibilities imposed on a pharmacist for ensuring the validity of an electronically prepared or facsimile-transmitted prescription and for ensuring that all required elements of a prescription are included on the prescription, who is authorized to contact the prescriber or the prescriber’s agent to verify the prescription or obtain missing elements, and which pharmacy personnel are authorized to receive a prescription transmitted by a prescriber or prescriber’s agent. Another commenter suggested that the rules regarding electronic records should specifically prohibit the disclosure or sharing of credentials issued for the purpose of accessing or utilizing any functionality of the electronic application or system. The Board reviewed and considered all comments and changed the amendments in response to many of those comments.

The adopted amendments differ from those published under Notice. Subrule 10.21(5), previously indicated as “no change,” has been amended to include the option of communicating with the prescriber or the prescriber’s agent for the purpose of changing or adding limited information, including the prescriber’s address or DEA registration number, to a prescription for a Schedule II controlled substance. The option of either a prescriber or prescriber’s agent to transmit a prescription or medication order to a pharmacy, or to verify the content of a prescription, has been added in the following: rule 657—8.19(124,126,155A), introductory paragraph; subparagraph 8.19(1)“d”(3); subrule 10.21(2); rule 657—21.1(124,155A), definition of “facsimile transmission”; and rules 657—21.9(124,155A), 657—21.12(124,155A), and 657—21.13(124,155A). Language requiring that the unique authentication credentials issued to an individual for the purposes of accessing or utilizing an electronic application or



## PHARMACY BOARD[657](cont'd)

system shall be securely maintained by the individual to whom the credentials are issued and that those credentials shall not be disclosed to or shared with any other individual is added in subrule 10.21(1) and rule 657—21.2(124,155A). Paragraph 8.19(1)“b” has been changed to identify the exception to the manual signature requirement for a written prescription when the prescription is for a noncontrolled substance and the prescription is printed on security paper from an electronic prescribing system. The word “laws” has been added to the phrase “state and federal rules and regulations” in subrule 21.4(2) so that the phrase conforms to like references used throughout the Board’s rules.

The amendments were approved during the November 10, 2011, meeting of the Board of Pharmacy. After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 124.301, 124.306, 124.308, 126.10, 126.11, 155A.13, 155A.27, and 155A.29.

These amendments will become effective on January 18, 2012.

The following amendments are adopted.

ITEM 1. Amend rule 657—8.19(124,126,155A) as follows:

**657—8.19(124,126,155A) Manner of issuance of a prescription drug or medication order.** A prescription drug order or medication order may be transmitted from a prescriber or a prescriber’s agent to a pharmacy in written form, orally including telephone voice communication, by facsimile transmission as provided in rule 657—21.9(124,155A), or by electronic transmission in accordance with applicable federal and state laws, ~~and~~ rules, and regulations. Any prescription drug order or medication order provided to a patient in written or printed form shall include the original, handwritten signature of the prescriber except as provided in rule 657—21.7(124,155A).

**8.19(1) Requirements for a prescription.** A valid prescription drug order shall be based on a valid patient-prescriber relationship.

*a. Written, electronic, or facsimile prescription.* In addition to the electronic prescription application and pharmacy prescription application requirements of this rule, a written, electronic, or facsimile prescription shall include:

- (1) The date issued.
- (2) The name and address of the patient.
- (3) The name, strength, and quantity of the drug or device prescribed.
- (4) The name and address of the prescriber and, if the prescription is for a controlled substance, the prescriber’s DEA registration number.
- (5) The written or electronic signature of the prescriber.

*b. Written prescription.* In addition to the requirements of paragraph 8.19(1)“a,” a written prescription shall be manually signed, with ink or indelible pencil, by the prescriber. The requirement for manual signature shall not apply when an electronically prepared and signed prescription for a noncontrolled substance is printed on security paper as provided in 657—paragraph 21.7(3)“b.”

*c. Facsimile prescription.* In addition to the requirements of paragraph 8.19(1)“a,” a prescription transmitted via facsimile shall include:

- (1) The identification number of the facsimile machine used to transmit the prescription to the pharmacy.
- (2) The time and date of transmission of the prescription.
- (3) The name, address, telephone number, and facsimile number of the pharmacy to which the prescription is being transmitted.
- (4) If the prescription is for a controlled substance and in compliance with DEA regulations, the manual signature of the prescriber.

*d. Electronic prescription.* In addition to the requirements of paragraph 8.19(1)“a,” an electronically prepared prescription for a controlled or noncontrolled prescription drug or device that is electronically transmitted to a pharmacy shall include the prescriber’s electronic signature.

- (1) An electronically prepared prescription for a controlled substance that is printed out or faxed by the prescriber or the prescriber’s agent shall be manually signed by the prescriber.

## PHARMACY BOARD[657](cont'd)

(2) The prescriber shall ensure that the electronic prescription application used to prepare and transmit the electronic prescription complies with applicable state and federal laws, rules, and regulations regarding electronic prescriptions.

(3) The prescriber or the prescriber's agent shall provide verbal verification of an electronic prescription upon the request of the pharmacy.

~~8.19(1)~~ **8.19(2)** *Verification.* The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of any prescription drug order or medication order consistent with federal and state laws, ~~and rules, and regulations.~~ In exercising professional judgment, the prescribing practitioner and the pharmacist shall take adequate measures to guard against the diversion of prescription drugs and controlled substances through prescription forgeries.

~~8.19(2)~~ **8.19(3)** *Transmitting agent.* The prescribing practitioner may authorize an agent to transmit to the pharmacy a prescription drug order or medication order orally, by facsimile transmission, or by electronic transmission provided that the ~~name~~ first and last names and title of the transmitting agent is are included in the order.

*a. New order.* A new written or electronically prepared and transmitted prescription drug or medication order shall be manually or electronically signed by the prescriber. If transmitted by the prescriber's agent, the ~~name~~ first and last names and title of the transmitting agent shall be included in the order. If the prescription is for a controlled substance and is written or printed from an electronic prescription application, the prescription shall be manually signed by the prescriber prior to delivery of the prescription to the patient or prior to facsimile transmission of the prescription to the pharmacy. An electronically prepared prescription shall not be electronically transmitted to the pharmacy if the prescription has been printed prior to the electronic transmission. An electronically prepared and electronically transmitted prescription that is printed following the electronic transmission shall be clearly labeled as a copy, not valid for dispensing.

*b. Refill order or renewal order.* An authorization to refill a prescription drug or medication order, or to renew or continue an existing drug therapy, may be transmitted to a pharmacist through oral communication, in writing, by facsimile transmission, or by electronic transmission initiated by or directed by the prescriber.

(1) If the transmission is completed by the prescriber's agent and the ~~name~~ first and last names and title of the transmitting agent ~~is~~ are included in the order, the prescriber's signature is not required on the fax or alternate electronic transmission.

(2) If the order differs in any manner from the original order, such as a change of the drug strength, dosage form, or directions for use, the prescriber shall sign the order as provided by paragraph 8.19(3) "a."

~~8.19(3)~~ **8.19(4)** *Receiving agent.* Regardless of the means of transmission to a pharmacy, only a pharmacist, a pharmacist-intern, or a certified pharmacy technician shall be authorized to receive a new prescription drug or medication order from a practitioner or the practitioner's agent. In addition to a pharmacist, a pharmacist-intern, and a certified pharmacy technician, a technician trainee or an uncertified pharmacy technician may receive a refill or renewal order from a practitioner or the practitioner's agent if the technician's supervising pharmacist has authorized that function.

~~8.19(4)~~ **8.19(5)** *Legitimate purpose.* The pharmacist shall ensure that the prescription drug or medication order, regardless of the means of transmission, has been issued for a legitimate medical purpose by an authorized practitioner acting in the usual course of the practitioner's professional practice. A pharmacist shall not dispense a prescription drug if the pharmacist knows or should have known that the prescription was issued solely on the basis of an Internet-based questionnaire, an Internet-based consultation, or a telephonic consultation and without a valid preexisting patient-practitioner relationship.

~~8.19(5)~~ **8.19(6)** *Refills.* ~~A prescription for a prescription drug or device that is not a controlled substance may authorize no more than 12 refills within 18 months following the date on which the prescription is issued. A refill is one or more dispensings of a prescription drug or device that results result in the patient's receipt of the quantity authorized by the prescriber for a single fill as indicated on the prescription drug order.~~

## PHARMACY BOARD[657](cont'd)

*a. Noncontrolled prescription drug or device.* A prescription for a prescription drug or device that is not a controlled substance may authorize no more than 12 refills within 18 months following the date on which the prescription is issued.

*b. Controlled substance.* A prescription for a Schedule III, IV, or V controlled substance may authorize no more than 5 refills within 6 months following the date on which the prescription is issued.

ITEM 2. Amend rule 657—10.17(124) as follows:

**657—10.17(124) Accountability of stock supply.** An individual who administers a controlled substance from a non-patient-specific, stock supply in an institutional setting shall personally document on a separate readily retrievable record system each dose administered, wasted, or returned to the pharmacy. Such documentation shall not be delegated to another individual. Wastage documentation shall include the signature or unique electronic signature or identification of a witnessing licensed health care practitioner.

Distribution records for non-patient-specific, floor-stocked controlled substances shall bear the following information:

1. to 7. No change.

ITEM 3. Amend rule 657—10.21(124,126,155A) as follows:

**657—10.21(124,126,155A) Prescription requirements.** All prescriptions for controlled substances shall be dated as of, and ~~manually~~ signed on, the day issued. Controlled substances prescriptions shall be valid for six months following date of issue. A prescription for a Schedule III, IV, or V controlled substance may include authorization to refill the prescription no more than five times within the six months following date of issue. A prescription for a Schedule II controlled substance shall not be refilled.

**10.21(1) Form of prescription.** All prescriptions shall bear the full name and address of the patient; the drug name, strength, dosage form, quantity prescribed, and directions for use; and the name, address, and DEA registration number of the prescriber. All prescriptions issued by individual prescribers shall include the legibly preprinted, typed, or hand-printed name of the prescriber as well as the prescriber's written or electronic signature. When an oral order is not permitted, or when a prescriber is unable to prepare and transmit an electronic prescription in compliance with DEA requirements for electronic prescriptions, prescriptions shall be written with ink, indelible pencil, or typed print and shall be manually signed by the prescriber. If the prescriber utilizes an electronic prescription application that meets DEA requirements for electronic prescriptions, the prescriber may electronically prepare and transmit a prescription for a controlled substance to a pharmacy that utilizes a pharmacy prescription application that meets DEA requirements for electronic prescriptions. A secretary or prescriber's agent may prepare a prescription for the review, authorization, and manual or electronic signature of the prescriber but the prescribing practitioner is responsible for the accuracy, completeness, and validity of the prescription. An electronic prescription for a controlled substance shall not be transmitted to a pharmacy except by the prescriber in compliance with DEA regulations. A prescriber shall securely maintain the unique authentication credentials issued to the prescriber for utilization of the electronic prescription application and authentication of the prescriber's electronic signature. Unique authentication credentials issued to any individual shall not be shared with or disclosed to any other prescriber, agent, or individual. A corresponding liability rests upon the pharmacist who fills a prescription not prepared in the form prescribed by this rule.

**10.21(2) Verification by pharmacist.** The pharmacist shall verify the authenticity of the prescription with the individual prescriber or the prescriber's agent in each case when a written or oral prescription for a Schedule II controlled substance is presented for filling and neither the prescribing individual practitioner issuing the prescription nor the patient or patient's agent is known to the pharmacist. The pharmacist shall verify the authenticity of the prescription with the individual prescriber or the prescriber's agent in any case when the pharmacist questions the validity of, including the legitimate

## PHARMACY BOARD[657](cont'd)

medical purpose for, the prescription. The pharmacist is required to record the manner by which the prescription was verified and include the pharmacist's name or unique identifier.

**10.21(3) *Intern, resident, foreign physician.*** An intern, resident, or foreign physician exempt from registration pursuant to subrule 10.6(5) shall include on all prescriptions issued the hospital's registration number and the special internal code number assigned by the hospital in lieu of the prescriber's registration number required by this rule. Each prescription shall include the stamped or legibly printed name of the intern, resident, or foreign physician as well as the prescriber's signature.

**10.21(4)** No change.

**10.21(5) *Schedule II prescriptions.*** With appropriate verification, a pharmacist may add information provided by the patient or patient's agent, such as the patient's address, to a Schedule II controlled substance prescription. A pharmacist shall never change the patient's name, the controlled substance prescribed except for generic substitution, or the name or signature of the prescriber. After consultation with the ~~prescribing practitioner~~ prescriber or the prescriber's agent and documentation of such consultation, a pharmacist may change or add the following information on a Schedule II controlled substance prescription:

- a. The drug strength;
- b. The dosage form;
- c. The drug quantity;
- d. The directions for use; ~~and~~
- e. The date the prescription was issued; and
- f. The prescriber's address or DEA registration number.

ITEM 4. Amend subrule 10.22(1) as follows:

**10.22(1) *Emergency situation defined.*** For the purposes of authorizing an oral or ~~electronically transmitted~~ facsimile transmission of a prescription for a Schedule II controlled substance listed in Iowa Code section 124.206, the term "emergency situation" means those situations in which the prescribing practitioner determines that all of the following apply:

- a. and b. No change.
- c. It is not reasonably possible for the prescribing practitioner to provide a manually signed written prescription to be presented to the ~~person dispensing the substance prior to pharmacy before the dispensing pharmacy dispenses the controlled substance or the prescribing practitioner is unable to provide a DEA-compliant electronic prescription to the pharmacy before the pharmacy dispenses the controlled substance.~~

ITEM 5. Amend subrule 10.22(2) as follows:

**10.22(2) *Requirements of emergency prescription.*** In the case of an emergency situation as defined ~~herein~~ in subrule 10.22(1), a pharmacist may dispense a controlled substance listed in Schedule II pursuant to ~~an electronic~~ a facsimile transmission or upon receiving oral authorization of a prescribing individual practitioner provided that:

- a. The quantity prescribed and dispensed is limited to the smallest available quantity to meet the needs of the patient during the emergency period. Dispensing beyond the emergency period requires a written prescription manually signed by the prescribing individual practitioner or a DEA-compliant electronic prescription.

b. No change.

c. The pharmacist shall prepare a temporary written record of the emergency prescription. The temporary written record shall consist of a hard copy of the ~~electronic~~ facsimile transmission or a written record of the oral transmission authorizing the emergency dispensing. A written record is not required to consist of a handwritten record and may be a printed facsimile or a print of a computer-generated record of the prescription if the printed record includes all of the required elements for the prescription. If the emergency prescription is transmitted by the practitioner's agent, the record shall include the ~~name~~ first and last names and title of the individual who transmitted the prescription.

d. If the emergency prescription is transmitted via ~~electronic~~ facsimile transmission, the means of transmission shall not obscure or render the prescription information illegible due to security features of

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the paper utilized by the prescriber to prepare the written prescription, and the hard-copy record of the ~~electronic~~ facsimile transmission shall not be obscured or rendered illegible due to such security features.

*e.* No change.

*f.* The pharmacist shall notify the board and the DEA if the prescribing individual fails to deliver a written prescription. Failure of the pharmacist to so notify the board and the DEA, or failure of the prescribing individual to deliver the required written prescription as herein required, shall void the authority conferred by this subrule.

ITEM 6. Amend rule 657—10.27(124,155A), introductory paragraph, as follows:

**657—10.27(124,155A) Facsimile transmission of a controlled substance prescription.** With the exception of an authorization for emergency dispensing as provided in rule 657—10.22(124), a prescription for a controlled substance may be transmitted via facsimile from a prescriber to a pharmacy as provided in rule 657—21.9(124,155A).

ITEM 7. Amend rule 657—21.1(124,155A) as follows:

**657—21.1(124,155A) Definitions.** For the purpose of this chapter, the following definitions shall apply:

“Application service provider” means an entity that sells electronic prescription or pharmacy prescription applications as a hosted service where the entity controls access to the application and maintains the software and records on its servers.

“DEA” means the U.S. Department of Justice, Drug Enforcement Administration.

“Electronically prepared prescription” means a prescription that is generated utilizing an electronic prescription application.

“Electronic prescription” means an electronically prepared prescription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

“Electronic prescription application” means software that is used to create electronic prescriptions and that is intended to be installed on a prescriber’s computers and servers where access and records are controlled by the prescriber.

“Electronic signature” means a confidential personalized digital key, code, or number, or other method used for secure electronic data transmissions which identifies and a particular person as the source of the message, authenticates the signatory of the message, and indicates the person’s approval of the information contained in the transmission.

“Electronic transmission” means the transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment. “Electronic transmission” includes, but is not limited to, transmission by facsimile machine, transmission to a printer as provided in subrule 21.7(3), and transmission by computer link, modem, or other communication device of an electronic prescription, formatted as an electronic data file, from a prescriber’s electronic prescription application to a pharmacy’s computer, where the data file is imported into the pharmacy prescription application.

“Facsimile transmission” or “fax transmission” means the transmission of a digital image of a prescription from the prescriber or the prescriber’s agent to the pharmacy. “Facsimile transmission” includes but is not limited to transmission of a written prescription between the prescriber’s fax machine and the pharmacy’s fax machine; transmission of an electronically prepared prescription from the prescriber’s electronic prescription application to the pharmacy’s fax machine, computer, or printer; or transmission of an electronically prepared prescription from the prescriber’s fax machine to the pharmacy’s fax machine, computer, or printer.

“Intermediary” means any technology system that receives and transmits an electronic prescription between the prescriber and the pharmacy.

“Pharmacy prescription application” means software that is used to process prescription information, is installed on a pharmacy’s computers or servers, and is controlled by the pharmacy.

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*“Prescription drug order”* or *“prescription”* means a lawful order of a practitioner for a drug or device for a specific patient that is communicated to a pharmacy, regardless of whether the communication is oral, electronic, facsimile, or in printed form.

*“Readily retrievable”* means that records kept by automatic data processing applications or other electronic or mechanized record-keeping systems can be separated out from all other records within a reasonable time not to exceed 48 hours of a request from the board or other authorized agent or that hard-copy records are kept on which certain items are asterisked, redlined, or in some other manner visually identifiable apart from other items appearing on the records.

*“Written prescription”* means a prescription that is created on paper, a prescription that is electronically prepared and printed, or a prescription that is electronically prepared and transmitted from the prescriber’s electronic device to a pharmacy via facsimile. A written prescription for a controlled substance shall be manually signed by the prescriber in compliance with federal and state laws, rules, and regulations.

ITEM 8. Amend rule 657—21.2(124,155A) as follows:

**657—21.2(124,155A) System security and safeguards.** To maintain the integrity and confidentiality of patient records and prescription drug orders, any system or computer utilized shall have adequate security including system safeguards designed to prevent and detect unauthorized access, modification, or manipulation of patient records and prescription drug orders. Authentication credentials shall be securely maintained by the individual to whom the credentials are issued and shall not be shared with or disclosed to any other individual. Once a drug or device has been dispensed, any alterations in either the prescription drug order data or the patient record shall be documented and shall include the identification of all pharmacy personnel who were involved in making the alteration as well as the responsible pharmacist. A pharmacy prescription application used for the receipt and processing of electronic transmissions from a prescriber’s electronic prescription application shall comply with DEA requirements relating to electronic prescriptions and shall be certified compliant with DEA regulations.

ITEM 9. Amend rule 657—21.3(124,155A) as follows:

**657—21.3(124,155A) Verifying authenticity of an electronically prepared or electronically or fax transmitted prescription.** The pharmacist shall ensure the validity of the prescription as to its source of origin.

**21.3(1) Authentication measures.** Measures to be considered in authenticating prescription drug orders received via electronic transmission or fax transmission, or signed utilizing an electronic signature include but may not be limited to:

- 1- a. Maintenance of a practitioner number reference or electronic signature file.
- 2- b. Verification of the telephone number of the originating facsimile equipment or oral communication device.
- 3- c. Telephone verification with the practitioner’s office that the prescription was both issued by the practitioner and transmitted by the practitioner or the practitioner’s authorized agent.
- 4- d. Use of authentication processes approved by the DEA for controlled substances prescriptions.
- e. Other efforts which, in the professional judgment of the pharmacist, may be necessary to ensure that the transmission was initiated by the prescriber.

**21.3(2) Prescription originally electronically transmitted.** When a pharmacist receives a written or oral prescription that indicates the prescription was originally electronically transmitted to a pharmacy, the pharmacist shall check with the pharmacy to which the prescription was originally electronically transmitted to determine whether the prescription was received and dispensed.

a. If the pharmacy that received the original electronic prescription dispensed the original prescription, the pharmacist receiving the written prescription shall mark the written prescription as void and shall not dispense the written prescription.

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*b.* If the pharmacy that received the original electronic prescription has not dispensed the prescription, the pharmacy receiving the original electronic prescription shall mark the electronic prescription as void and shall not dispense the electronic prescription. The pharmacy that received the written or oral prescription shall dispense the prescription.

ITEM 10. Amend paragraph **21.4(1)“d”** as follows:

*d.* Date and quantity of each refill or partial fill, if applicable, and the total number of refills dispensed to date;

ITEM 11. Amend subrule 21.4(2) as follows:

**21.4(2) *Printout of prescription fill data.*** Any computerized system shall have the capability of producing a printout of any prescription fill data the user pharmacy is responsible for maintaining or producing under state and federal laws, rules and regulations. This would include a refill-by-refill audit trail for any specified strength and dosage form of any prescription drug by brand or generic name or both. Records maintained or provided in electronic format shall be sortable by prescriber name, patient name, drug dispensed, and date filled. ~~In any~~ Any computerized system employed by a user pharmacy, ~~the central record-keeping location must~~ shall be capable of providing the printout to at the pharmacy ~~within 48 hours a printout or electronic file of the records in a format that is readily understandable to the board or other authorized agents. A pharmacy may contract with an application service provider, or the pharmacy may maintain computer servers at a remote location, but all required records shall be readily retrievable at the pharmacy if requested by the board or other authorized agent.~~ The printout or electronic record shall include the following:

*a.* to *f.* No change.

ITEM 12. Amend subrule 21.4(3) as follows:

**21.4(3) *Auxiliary procedure for system downtime.*** In the event that a pharmacy utilizing a computerized system experiences system downtime, the pharmacy shall have an auxiliary procedure that will be used for documentation of fills and refills of prescription orders. This auxiliary procedure shall ensure that refills are authorized by the original prescription order, that the maximum number of refills has not been exceeded, and that all of the appropriate data is retained for ~~on-line~~ online data entry when the computer system is again available for use. As soon as reasonably possible upon resuming use of the computerized system, entry of all appropriate data accumulated during the system downtime shall be completed.

ITEM 13. Adopt the following **new** subrule 21.4(4):

**21.4(4) *Prescription notations.*** When a pharmacist fills an electronic prescription that would require the pharmacist to make a notation on the prescription if the prescription were a written prescription, the pharmacist shall make the same notation electronically and shall retain the annotation electronically in the prescription record or in linked files.

ITEM 14. Adopt the following **new** subrule 21.4(5):

**21.4(5) *Records for electronic prescriptions for controlled substances.*** A pharmacy that processes electronic prescriptions for controlled substances shall use a pharmacy prescription application that complies with DEA requirements relating to electronic prescriptions and that has been certified compliant with DEA regulations. When a prescription is received electronically from a prescriber's electronic prescription application into the pharmacy prescription application, the prescription and all required annotations shall be retained electronically.

ITEM 15. Amend rule 657—21.5(124,155A) as follows:

**657—21.5(124,155A) Pharmacist verification of controlled substance refills—daily printout or logbook.** The individual pharmacist who makes use of the ~~system~~ pharmacy prescription application shall provide documentation of the fact that the refill information entered into ~~a computer~~ the pharmacy prescription application each time the pharmacist refills an original written, fax, or oral prescription order for a controlled substance is correct. If the ~~system~~ pharmacy prescription application provides a hard-copy printout of each day's controlled substance prescription order refill data, that printout

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shall be verified, dated, and signed by each individual pharmacist who refilled a controlled substance prescription order. Each individual pharmacist must verify that the data indicated is correct and sign this document in the same manner as the pharmacist would sign a check or legal document (e.g., J. H. Smith or John H. Smith). This document shall be maintained in a separate file at that pharmacy for a period of two years from the dispensing date. This printout of the day's controlled substance prescription order refill data shall be generated by and available at each pharmacy using a computerized ~~system~~ pharmacy prescription application within 48 hours of the date on which the refill was dispensed. The printout shall be verified and signed by each pharmacist involved with such dispensing.

In lieu of preparing and maintaining printouts as provided above, the pharmacy may maintain a bound logbook or separate file. The logbook or file shall include a statement signed each day by each individual pharmacist involved in each day's dispensing that attests to the fact that the refill information entered into the ~~computer~~ pharmacy prescription application that day has been reviewed by the pharmacist and is correct as shown. Pharmacist statements shall be signed in the manner previously described. The ~~log-book~~ logbook or file shall be maintained at the pharmacy for a period of two years after the date of dispensing the appropriately authorized refill.

ITEM 16. Amend subrule 21.7(1) as follows:

**21.7(1) *Controlled substances.*** A prescription for a controlled substance prepared pursuant to this rule may be transmitted to a pharmacy via facsimile transmission as provided by rule 657—21.9(124,155A) or rules 657—21.12(124,155A) through 657—21.16(124,155A). The transmitted prescription shall include the prescriber's original signature or electronic signature. A prescription for a controlled substance may be transmitted by a prescriber to a pharmacy via electronic transmission pursuant to DEA requirements for electronic prescribing of controlled substances. Both the prescriber's electronic prescription application and the pharmacy prescription application shall be certified compliant with DEA regulations for electronic prescriptions. An electronically prepared prescription shall not be electronically transmitted to the pharmacy if the prescription has been printed prior to the electronic transmission. An electronically prepared and electronically transmitted prescription that is printed following the electronic transmission shall be clearly labeled as a copy only, not valid for dispensing.

ITEM 17. Amend subrule 21.7(2) as follows:

**21.7(2) *Noncontrolled prescription drugs.*** A prescription for a noncontrolled prescription drug prepared pursuant to this rule may be transmitted to a pharmacy via ~~computer-to-computer~~ electronic transmission as provided in rule 657—21.8(124,155A) or via facsimile transmission as provided in rule 657—21.9(124,155A). The transmitted prescription shall include the prescriber's original signature or electronic signature.

ITEM 18. Amend subrule 21.7(3) as follows:

**21.7(3) *Printed (hard-copy) prescriptions.*** A prescription prepared pursuant to this rule may be printed by the prescriber or prescriber's agent for delivery to a pharmacy. An electronically prepared and electronically transmitted prescription that is printed following the electronic transmission shall be clearly labeled as a copy, not valid for dispensing.

a. No change.

b. If the prescriber authenticates a prescription for a noncontrolled prescription drug utilizing an electronic signature, the printed prescription shall be printed on security paper that is designed to prevent photocopying or other duplication of the printed prescription by prominently disclosing the word "void" or "copy" on the duplication or by including a watermark or background that will not appear on duplication. If a watermark or background is used, the prescription shall include a statement that unless the watermark or background appears, the prescription is not valid. Security paper that complies with the security requirements of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, shall be deemed to comply with the security requirements of this paragraph.

c. No change.



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ITEM 19. Amend rule 657—21.8(124,155A) as follows:

**657—21.8(124,155A) Computer-to-computer Electronic transmission of a prescription.**

~~Prescription drug orders, excluding orders for controlled substances, may be communicated directly from a prescriber's computer or other electronic device utilizing an electronic prescription application to a pharmacy's computer prescription processing system pharmacy prescription application by electronic transmission. The receiving pharmacist shall be responsible for verifying the authenticity of an electronically transmitted prescription or of an electronic signature as provided by rule 657—8.19(124,126,155A) or 657—21.3(124,155A). The authenticity of a prescription transmitted via electronic transmission between a DEA-certified electronic prescription application and a DEA-certified electronic pharmacy prescription application shall be deemed verified by virtue of the security processes included in those applications.~~

**21.8(1) Secure transmission and patient's choice.** Orders shall be sent only to the pharmacy of the patient's choice, and no ~~unauthorized intervening person or other entity intermediary~~ shall change the content of the prescription drug order or compromise its confidentiality during the transmission process. The electronic format of the prescription drug order may be changed by the intermediary to facilitate the transmission between electronic applications as long as the content of the prescription drug order remains unchanged. This subrule does not prohibit the receiving pharmacist from amending or adding to the content of a prescription as necessary in compliance with federal and state laws, rules, or regulations.

**21.8(2) Information required.** ~~The~~ In addition to the information requirements for a prescription, an electronically transmitted prescription drug order shall identify the transmitter's telephone number for verbal confirmation, the time and date of transmission, and the pharmacy intended to receive the transmission as well as any other information required by federal or state laws, rules, or regulations.

**21.8(3) Who may transmit.** Orders shall be initiated and authorized only by ~~an authorized~~ a prescriber licensed and authorized under state law to prescribe the drug or device identified in the prescription and shall include the prescriber's electronic signature. An order for a controlled substance shall include the prescriber's DEA registration number. Orders may be transmitted by the prescriber or the prescriber's agent. An order transmitted by the prescriber's agent shall include the agent's first and last names and title.

**21.8(4) Original prescription.** The electronic transmission shall be deemed the original prescription drug order provided it meets the requirements of this rule. The electronic transmission of a prescription drug order for a controlled substance shall meet all requirements of the DEA for electronic prescribing. An electronically prepared and transmitted prescription shall be maintained electronically in the prescriber's electronic prescription application and the pharmacy prescription application for a minimum period of two years following the date of last activity on that prescription record. Once a prescription is created and transmitted electronically, the prescription record shall not be printed and retained as a hard-copy record.

**21.8(5) Failure of electronic transmission.** If the transmission of an electronic prescription fails, the intermediary shall notify the prescriber of that transmission failure and the prescriber may print the prescription, manually sign the printed prescription, and deliver the prescription to the pharmacy via facsimile transmission. The faxed prescription shall indicate that it was originally transmitted to the named pharmacy, the date and time of the original electronic transmission, and the fact that the original transmission failed.

ITEM 20. Amend rule 657—21.9(124,155A) as follows:

**657—21.9(124,155A) Facsimile transmission (fax) of a prescription.** A pharmacist may dispense noncontrolled and controlled drugs, excluding Schedule II controlled substances, pursuant to a prescription faxed to the pharmacy by the prescribing practitioner or the practitioner's agent. A pharmacist may dispense a Schedule II controlled substance to fill an emergency prescription authorization pursuant to the requirements of rule 657—10.22(124). The means of transmission via facsimile shall ensure that prescription information is not obscured or rendered illegible due to security features of the paper utilized by the prescriber to prepare a written prescription. The faxed prescription

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drug order shall serve as the original prescription, shall be maintained for a minimum of two years from the date of last fill or refill, and shall contain all information required by Iowa Code section 155A.27, including the prescriber's signature or electronic signature. The faxed prescription drug order, if transmitted by the practitioner's agent, shall identify the transmitting agent by ~~name~~ first and last names and title and shall include the prescriber's signature or electronic signature. A prescription for a controlled substance shall include the prescriber's manual signature. If the controlled substance prescription is not manually signed by the prescriber, the pharmacist shall orally verify the authenticity and the content of the prescription by contacting the prescriber or the prescriber's agent via telephone. The receiving pharmacist shall be responsible for verifying the authenticity of an electronically transmitted prescription or of an electronic signature as provided by rule 657—8.19(124,126,155A) or 657—21.3(124,155A). This rule shall not apply to a prescription drug order transmitted pursuant to 657—~~subrule 8.15(1)~~, paragraph 8.15(1) "d."

ITEM 21. Amend rule 657—21.12(124,155A) as follows:

**657—21.12(124,155A) Prescription drug orders for Schedule II controlled substances.** A pharmacist may dispense Schedule II controlled substances pursuant to an electronic transmission to the pharmacy of an electronically prepared prescription if both the prescriber's electronic prescription application and the pharmacy prescription application have been certified to comply with DEA requirements for electronic prescribing of controlled substances. Records of electronically prepared and transmitted prescriptions shall be maintained electronically. A pharmacist may dispense Schedule II controlled substances pursuant to ~~an electronic~~ facsimile transmission to the pharmacy of a written, signed prescription from the prescribing practitioner ~~or the practitioner's agent~~ provided that the original written, signed prescription is received by the pharmacist prior to the actual dispensing of the controlled substance. ~~If the~~ An emergency authorization is transmitted to the pharmacy by the practitioner's agent, ~~the transmission~~ shall include the ~~name~~ first and last names and title of the individual who transmitted the prescription. The means of transmission shall ensure that prescription information is not obscured or rendered illegible due to security features of the paper utilized by the prescriber to prepare a written prescription. The original prescription shall be verified against the transmission at the time the substance is actually dispensed, shall be properly annotated, and shall be retained with the electronic transmission for filing.

ITEM 22. Amend rule 657—21.13(124,155A) as follows:

**657—21.13(124,155A) ~~Prescription drug orders~~ Facsimile transmission of a prescription for Schedule II controlled substances—emergency situations.** A pharmacist may in an emergency situation as defined in 657—subrule 10.22(1) dispense Schedule II controlled substances pursuant to ~~an electronic~~ a facsimile transmission to the pharmacy of a written, signed prescription from the prescribing practitioner or the practitioner's agent pursuant to the requirements of 657—10.22(124). The facsimile or a print of the ~~electronic facsimile~~ transmission shall serve as the temporary written record required by 657—subrule 10.22(2).

ITEM 23. Amend rule 657—21.14(124,155A) as follows:

**657—21.14(124,155A) Facsimile transmission of a prescription for Schedule II narcotic substances—parenteral.** A prescription for a nonoral dosage unit of a Schedule II narcotic substance to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion may be transmitted by a practitioner or the practitioner's agent to the pharmacy via facsimile. If the prescription is transmitted by the practitioner's agent, the transmission shall include the ~~name~~ first and last names and title of the individual who transmitted the prescription. The means of transmission shall ensure that prescription information is not obscured or rendered illegible due to security features of the paper utilized by the prescriber to prepare a written prescription. The facsimile serves as the original written prescription.

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ITEM 24. Amend rule 657—21.15(124,155A), introductory paragraph, as follows:

**657—21.15(124,155A) Facsimile transmission of Schedule II controlled substances—long-term care facility patients.** A prescription for any Schedule II controlled substance for a resident of a long-term care facility may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy via facsimile. If the prescription is transmitted by the practitioner's agent, the transmission shall include the ~~name~~ first and last names and title of the individual who transmitted the prescription. The means of transmission shall ensure that prescription information is not obscured or rendered illegible due to security features of the paper utilized by the prescriber to prepare a written prescription.

ITEM 25. Amend rule 657—21.16(124,155A), introductory paragraph, as follows:

**657—21.16(124,155A) Facsimile transmission of Schedule II controlled substances—hospice patients.** A prescription for a Schedule II controlled substance for a patient enrolled in a hospice care program licensed pursuant to Iowa Code chapter 135J or a program certified or paid for by Medicare under Title XVIII may be transmitted via facsimile by the practitioner or the practitioner's agent to the dispensing pharmacy. If the prescription is transmitted by the practitioner's agent, the transmission shall include the ~~name~~ first and last names and title of the individual who transmitted the prescription. The means of transmission shall ensure that prescription information is not obscured or rendered illegible due to security features of the paper utilized by the prescriber to prepare a written prescription.

ITEM 26. Amend subrule 23.9(3) as follows:

**23.9(3) Who may transmit medication orders.** An authorized prescriber or prescriber's agent or any person who is employed by a long-term care facility and who is authorized by the facility's policies and procedures may transmit to the long-term care pharmacy a medication order lawfully ordered by a practitioner authorized to prescribe drugs and devices. An order transmitted by the prescriber's agent shall include the agent's first and last names and title.

ITEM 27. Amend rule 657—23.18(124,155A) as follows:

**657—23.18(124,155A) Schedule II orders.** This rule shall not apply to Schedule II controlled substances orders in facilities that utilize a floor stock distribution system as provided in subrule 23.11(4). Schedule II controlled substances in all other facilities shall be dispensed only upon receipt of an electronic prescription prepared, transmitted, and received in compliance with DEA regulations for electronic prescriptions or an original written order signed by the prescribing individual practitioner or upon receipt of a facsimile transmission of an original written order signed by the prescribing individual practitioner pursuant to rule 657—21.15(124,155A). In emergency situations as defined in 657—subrule 10.22(1), Schedule II controlled substances may be dispensed in compliance with the requirements of rule 657—10.22(124) or rule 657—21.13(124,155A), as applicable. In all cases, any order for a Schedule II controlled substance shall specify the total quantity authorized by the prescriber.

ITEM 28. Amend rule 657—23.20(124,155A), introductory paragraph, as follows:

**657—23.20(124,155A) Partial filling of Schedule II controlled substances.** A medication order for a Schedule II controlled substance ~~written~~ for a resident in a long-term care facility (LTCF) may be filled in partial quantities to include individual dosage units. The pharmacist shall record on the written or electronic medication order that the patient is an "LTCF patient." A medication order that is partially filled and does not contain the notation "LTCF patient" shall be deemed to have been filled in violation of the controlled substances Act.

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**ARC 9913B****PHARMACY BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 155A.13B, the Board of Pharmacy hereby adopts new Chapter 24, “Pharmacy Internet Sites,” Iowa Administrative Code.

The rules establish the requirements for the Internet sale of prescriptions by pharmacies and for accreditation by the National Association of Boards of Pharmacy (NABP) as a verified Internet pharmacy practice site (VIPPS). The rules identify specific information that must be displayed on a pharmacy Internet site and establish requirements for site registration with the Board. Terms used in the chapter are defined, prescription requirements are identified and responsibilities established, and record-keeping requirements are established. The rules also establish grounds for denial of an application for pharmacy Internet site registration or registration renewal and for disciplinary action and identify appeal processes and sanctions relating to those actions.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the October 5, 2011, Iowa Administrative Bulletin as **ARC 9789B**. The Board received written comments regarding the proposed amendments. A prescriber of veterinary medicines wrote in support of the rules. A national pharmacy association wrote, also supporting the rules but suggesting a change in the definition of “Internet pharmacy” to specifically exclude a pharmacy licensed and physically located in Iowa and with an associated Internet site. The Board considered the suggested change but did not agree to changing the definition. The Board believes that the adopted definition excludes those pharmacies, regardless of their location within or outside Iowa, that utilize an Internet site solely for the convenience of and communication with their patients.

Two minor changes have been made to the rules published under Notice. In the introductory paragraph of rule 657—24.7(155A), the phrase “shall apply for, obtain, and maintain from the board a pharmacy Internet site registration” was changed to “shall apply for, obtain, and maintain a pharmacy Internet site registration through the board.” In paragraphs 24.7(2)“a” and “b,” the phrase “at the time these rules became effective on February 1, 2012” was changed to “on or before February 1, 2012.”

The rules were approved during the November 10, 2011, meeting of the Board of Pharmacy.

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement Iowa Code section 155A.13B.

These rules will become effective on February 1, 2012.

The following amendment is adopted.

Adopt the following new 657—Chapter 24:

CHAPTER 24  
PHARMACY INTERNET SITES

**657—24.1(155A) Purpose and scope.** In the interests of public information, health, and safety, and pursuant to the provisions of Iowa Code section 155A.13B, this chapter establishes requirements for the Internet sale of prescription drugs by pharmacies and for VIPPS accreditation. This chapter identifies specific information that must be displayed on a pharmacy Internet site and establishes requirements for site registration. The requirements of this chapter apply to any Internet pharmacy and pharmacy Internet site as defined in rule 657—24.2(155A).

**657—24.2(155A) Definitions.** For the purposes of this chapter, the following definitions shall apply:

“*Board*” means the Iowa board of pharmacy.

“*DEA*” means the U.S. Department of Justice, Drug Enforcement Administration.

“*Electronic mail*” or “*e-mail*” means any message transmitted through the Internet, including but not limited to messages transmitted from or to any address affiliated with an Internet site.

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*“Internet”* means the federated international system that is composed of allied electronic communication networks linked by telecommunication channels, that uses standardized protocols, and that facilitates electronic communication services, including but not limited to use of the World Wide Web; the transmission of electronic mail or messages; the transfer of files and data or other electronic information; and the transmission of voice, image, and video.

*“Internet broker”* means an entity that serves as an agent or intermediary or other capacity that causes the Internet to be used to bring together a buyer and seller.

*“Internet pharmacy”* means a pharmacy that delivers, distributes, or dispenses, by means of an Internet sale pursuant to a prescription drug order, a prescription product to a patient located in Iowa, whether the patient is human or animal. “Internet pharmacy” does not include a pharmacy that maintains an Internet site for the convenience of the pharmacy’s patients to request a prescription refill or to request or retrieve drug information but requires that the filled prescription be delivered to the patient from the licensed physical location of the pharmacy.

*“Internet sale”* means a transaction, initiated via an Internet site, which includes the order of and the payment for a prescription drug product.

*“Internet site”* means a specific location on the Internet that is determined by Internet protocol numbers, by a domain name, or by both, including but not limited to domain names that use the designations “.com”, “.edu”, “.gov”, “.org”, and “.net”.

*“Iowa PMP”* means the prescription monitoring program established pursuant to 657—Chapter 37.

*“NABP”* means the National Association of Boards of Pharmacy.

*“Prescription product”* means any prescription drug or device, including any controlled substance, as those terms are defined in Iowa Code section 155A.3.

*“Vet-VIPPS accreditation”* means that a pharmacy which dispenses prescription products for companion and non-food-producing animals has been evaluated by NABP and has been determined to be properly licensed and in compliance with federal and state laws, rules and regulations regarding the operation of a veterinary pharmacy.

*“VIPPS”* means verified Internet pharmacy practice site.

*“VIPPS accreditation”* means that a pharmacy has been evaluated by NABP and has been determined to be in compliance with federal and state laws, rules and regulations regarding the operation of a pharmacy and with NABP evaluation criteria. “VIPPS accreditation” includes Vet-VIPPS accreditation.

*“VIPPS seal”* means the symbol provided by NABP to a pharmacy for display on the pharmacy’s Internet site evidencing the pharmacy’s VIPPS accreditation.

**657—24.3(155A) General requirements for Internet pharmacy.** A pharmacy operating within or outside Iowa shall not provide any prescription product to any patient within Iowa through an Internet site or e-mail unless the pharmacy is in compliance with the provisions of this chapter.

**24.3(1) Pharmacy license.** A pharmacy, prior to providing any prescription drug, including any controlled substance, to any patient within Iowa, shall apply for, obtain, and maintain a pharmacy license pursuant to the provisions of rule 657—8.35(155A).

**24.3(2) Pharmacist license.** A pharmacist practicing in a pharmacy that provides any prescription drug, including any controlled substance, to any patient within Iowa shall be licensed by the pharmacist licensing authority in the state wherein the pharmacist practices.

**24.3(3) Iowa PMP.** A pharmacy located within Iowa that provides any controlled substance included in Schedules II through IV of Iowa Code chapter 124 to any patient within Iowa, unless the pharmacy is exempt from reporting pursuant to 657—subrule 37.3(1), shall report those dispensed prescriptions to the Iowa PMP as provided in rule 657—37.3(124).

**24.3(4) VIPPS accreditation.** An Internet pharmacy that provides any prescription drugs, including controlled substances, to any patient within Iowa shall obtain and maintain VIPPS accreditation and shall include evidence of such VIPPS accreditation on any Internet site identifying the pharmacy as provided in rule 657—24.7(155A).

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**657—24.4 and 24.5** Reserved.

**657—24.6(155A) Prescription requirements.** A prescription drug order issued by an authorized prescriber shall comply with the requirements for a prescription identified in Iowa Code section 155A.27. No prescription product may be delivered, distributed, or dispensed by means of, through, or on behalf of an Internet site or by means of an e-mail communication without a valid prescription drug order.

**24.6(1) Prescriber licensed.** A prescriber who authorizes a prescription drug order through an Internet site or e-mail for a patient located in Iowa shall:

- a. Be licensed by the licensing authority of the state in which the prescriber practices,
- b. Be in compliance with all applicable federal and state laws, rules and regulations relating to the prescriber's practice, and
- c. If the prescription drug order authorizes the dispensing of a controlled substance, be registered to prescribe controlled substances by the DEA and, if required, by the appropriate state agency or board.

**24.6(2) Pharmacist responsibility.** A licensed pharmacist practicing within or outside Iowa shall not fill a prescription drug order for a patient located in Iowa if the pharmacist knows or reasonably should have known that the prescription drug order was issued under both of the following conditions:

- a. Solely on the basis of an Internet questionnaire, an Internet consultation, or a telephonic consultation, and
- b. Without a valid patient-practitioner relationship.

**657—24.7(155A) Internet site registration.** An Internet site that intends to display, advertise, or solicit the Internet sale of prescription products to patients in Iowa shall apply for, obtain, and maintain a pharmacy Internet site registration through the board. A pharmacy Internet site registration shall be issued to the Internet site by the domain name and the owner of the Internet site.

**24.7(1) Application for registration.** Application for registration and registration renewal shall be on forms provided by the board. The application form shall include the following information:

- a. The common or searchable name, if such name exists, of the Internet site.
- b. The domain name including "dot" extension of the Internet site.
- c. The Internet protocol number of the Internet site.
- d. The name and address of the owner or owners of the Internet site. If the owner is a corporation, the names and addresses of the officers and directors of the corporation shall be included. If the owner is a partnership or limited partnership, the names and addresses of all partners shall be included.
- e. The name, address, and Iowa pharmacy license number of each Internet pharmacy that will be identified on the Internet site.
- f. The signature of the owner of the Internet site or the signature of the owner's, partnership's or corporation's authorized representative and the date the application is signed.

**24.7(2) Timeliness of application.** An application for pharmacy Internet site registration or registration renewal shall be timely submitted to the board.

a. *Existing Internet site.* If the application is for registration of a pharmacy Internet site that is operational on or before February 1, 2012, the application and registration fee shall be due no later than May 1, 2012.

b. *New Internet site.* If the application is for registration of a new pharmacy Internet site that was not operational on or before February 1, 2012, the application and registration fee shall be due no less than 30 days prior to implementation of the Internet site.

c. *Renewal.* If the application is for renewal of an existing pharmacy Internet site registration, the application and registration fee shall be due prior to expiration of the current registration.

**24.7(3) Renewal of registration.** A pharmacy Internet site registration shall be annually renewed prior to expiration of the registration on December 31. Registration renewal shall require the completion of a renewal application form provided by the board. A completed application shall include payment of the renewal fee and any applicable late payment penalty fee. A registration that is not timely renewed shall be delinquent unless previously canceled by written notification to the board. If a pharmacy Internet

## PHARMACY BOARD[657](cont'd)

site registration is canceled or delinquent, the Internet site shall discontinue association with any Internet pharmacy and shall discontinue the display, advertising, or solicitation of the Internet sale of prescription products to patients in Iowa.

**24.7(4) Fees and term of registration.** The following fees, as applicable, shall accompany an application for pharmacy Internet site registration or registration renewal:

*a. Initial registration.* The fee for initial registration of a pharmacy Internet site shall be \$150. All registrations shall expire annually on December 31.

*b. Registration renewal.* The fee for renewal of a pharmacy Internet site registration shall be \$150. Failure to renew a registration prior to expiration shall require payment of a late payment fee in the amount of \$150 in addition to the renewal fee. Failure to renew a registration within 30 days following expiration shall require payment of a late payment fee in the amount of \$250 in addition to the renewal fee. Failure to renew a registration within 60 days following expiration shall require payment of a late payment fee in the amount of \$350 in addition to the renewal fee. Failure to renew a registration within 90 days following expiration shall require payment of a late payment fee in the amount of \$450 in addition to the renewal fee. The total renewal and late payment fee shall not exceed \$600. Failure to timely renew a registration may subject the registrant to disciplinary action.

**24.7(5) Internet site registration changes.** The board shall be notified as provided in this subrule within ten days of any of the following:

*a. Change of domain name or Internet protocol number.* Change of domain name or Internet protocol number requires completion and submission of a new registration application and payment of the registration fee within ten days.

*b. Change of ownership.* Change of ownership requires completion and submission of a new registration application and payment of the registration fee within ten days. The sale or transfer of all or a portion of the stock of a corporation, or a change of the individual partners comprising a partnership, shall not constitute a change of ownership provided the corporation or partnership that owns the Internet site continues to exist as the owner of the Internet site following the transaction.

*c. Discontinuation of the registered pharmacy Internet site.* Prior to discontinuation of a registered pharmacy Internet site but no later than 30 days prior to removal of the pharmacy Internet site from public access, written notification shall be provided to the board. The written notice shall include the domain name and the Internet protocol number of the Internet site, the registration number issued by the board to the pharmacy Internet site, the date the Internet site will be removed from Internet access, the reason for discontinuation of the Internet site, the date of the notice, and the signature of the owner or the owner's authorized representative. If discontinuation of the Internet site also involves the sale or closing of a licensed pharmacy, the closing pharmacy shall comply with all requirements of 657—subrule 8.35(7).

**657—24.8(155A) Internet site information.** A pharmacy Internet site shall display on the home page of the Internet site or on a page directly linked to the home page the information identified in this rule. If the information is displayed on a page directly linked to the home page, the link on the home page shall be visible and clearly and conspicuously identified.

**24.8(1) Registration number.** The Internet site registration number shall be displayed. Display shall consist of the following statement or a statement substantially equivalent to the following statement: "In compliance with Iowa Code section 155A.13B and 657 IAC Chapter 24, this internet site is registered with the Iowa Board of Pharmacy, registration number \_\_\_\_."

**24.8(2) Pharmacy identification.** The following information shall be displayed for each pharmacy that delivers, distributes, or dispenses prescription drugs pursuant to orders made on, through, or on behalf of the Internet site:

- a.* The name of the pharmacy.
- b.* The address of the licensed physical location of the pharmacy.
- c.* The telephone number of the pharmacy.
- d.* The pharmacy license number issued to the pharmacy by the board.

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**24.8(3) VIPPS accreditation.** The VIPPS seal shall be prominently displayed. The following links to information regarding the VIPPS accreditation maintained by each Internet pharmacy associated with the Internet site shall also be displayed.

*a.* A link to the NABP's VIPPS accreditation verification site.

*b.* A link to the certification issued by NABP which identifies the individual Internet pharmacy as a VIPPS-accredited site.

**24.8(4) DEA requirements relating to controlled substances.** A pharmacy Internet site identifying any pharmacy that dispenses controlled substances through the Internet site shall, in addition to the requirements of this rule for the posting of Internet site information, comply with DEA disclosure requirements found at 21 CFR 1304.45.

**657—24.9 and 24.10** Reserved.

**657—24.11(155A) Records.** Records regarding the operation of a pharmacy and the dispensing of prescription products to patients within Iowa shall be maintained by each Internet pharmacy pursuant to the requirements of federal and state laws, rules and regulations. Required pharmacy and inventory records shall be available for inspection and copying by the board or its representative for at least two years from the date of the record or inventory unless a longer retention period is specified for a particular record or inventory.

**657—24.12(155A) Pharmacy liability.** An Internet pharmacy shall not disclaim, limit, or waive any liability to which the pharmacy otherwise is subject under law for the act or practice of selling, dispensing, distributing, or delivering prescription products to any patient in Iowa based on the patient's submission of the purchase order or refill request for the prescription product through an Internet site or by e-mail.

**657—24.13(155A) Application denial.**

**24.13(1)** The executive director or designee may deny an application for registration or renewal of a registration as a pharmacy Internet site for any violation of the laws of this state, another state, or the United States relating to prescription products, Internet pharmacy practices, or the distribution of prescription products utilizing the Internet or e-mail or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205 or any rule of the board.

**24.13(2)** An applicant whose application has been denied pursuant to this rule may, within 30 days after issuance of the notice of denial, appeal to the board for reconsideration of the application.

**657—24.14(155A) Discipline.**

**24.14(1) Internet site.** The board may impose discipline for any violation of the laws of this state, another state, or the United States relating to prescription products, Internet pharmacy practices, or the distribution of prescription products utilizing the Internet or e-mail or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205 or any rule of the board. The board may impose on the pharmacy Internet site registrant any disciplinary sanctions allowed by law as may be appropriate including, but not limited to, revocation of the registration, suspension of the registration for a specified period or until further order of the board, nonrenewal of a registration, the imposition of civil penalties not to exceed \$25,000, or issuance of a citation and warning.

**24.14(2) Pharmacy, pharmacist, and other pharmacy staff.** The board may impose discipline for any violation of the laws of this state, another state, or the United States relating to prescription products, Internet pharmacy practices, or the distribution of prescription products utilizing the Internet or e-mail or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205 or any rule of the board. The board may impose on the pharmacy, pharmacist, or other registered pharmacy staff any disciplinary



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sanctions allowed by law as may be appropriate or as may be identified in Iowa law or rules of the board regarding sanctions that may be imposed on the specific license or registration.

These rules are intended to implement Iowa Code section 155A.13B.

[Filed 11/16/11, effective 2/1/12]

[Published 12/14/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/11.

**ARC 9927B**

**PUBLIC SAFETY DEPARTMENT[661]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 101.1, the State Fire Marshal hereby rescinds Chapter 51, "Flammable and Combustible Liquids," and adopts new Chapter 228, "Liquefied Natural Gas," Iowa Administrative Code.

Iowa Code section 101.1 authorizes the State Fire Marshal to establish requirements for the safe transportation, storage, handling, and use of liquefied natural gas. The standard has not been updated since 2002. The amendments adopted herein update the reference to the national standard used as the basis for requirements for transportation, storage, handling, and use of liquefied natural gas and move the rule to a new chapter. This is part of a renumbering of administrative rules of the Department of Public Safety intended to make the rules more accessible and easier to understand.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 9765B** on October 5, 2011. A public hearing on the proposed amendments was held on November 1, 2011. No comments on the proposed amendments were received either at the hearing or otherwise. There are no substantive changes to the amendments adopted herein. However, an address is added for the organization that publishes the standard adopted by reference.

No fiscal impact is anticipated from these amendments.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 101.

These amendments will become effective February 1, 2012.

The following amendments are adopted.

ITEM 1. Rescind **661—Chapter 51**.

ITEM 2. Adopt the following **new** 661—Chapter 228:

**CHAPTER 228**

**LIQUEFIED NATURAL GAS**

**661—228.1(101) Transportation, storage, handling, and use of liquefied natural gas.** NFPA 59A, "Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG)," 2009 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts, USA 02169-7471, is adopted by reference as the rules governing the transportation, storage, handling, and use of liquefied natural gas. Persons who transport, store, handle, or use liquefied natural gas shall comply with the applicable requirements established therein.

This rule is intended to implement Iowa Code chapter 101.

[Filed 11/23/11, effective 2/1/12]

[Published 12/14/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/11.

**ARC 9928B****PUBLIC SAFETY DEPARTMENT[661]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 100B.10, the State Fire Marshal hereby amends Chapter 251, “Fire Fighter Training and Certification,” Iowa Administrative Code.

Iowa Code chapter 100B requires the State Fire Marshal to establish minimum training standards for fire fighters. The current standards were adopted several years ago. The amendments to the rules which establish minimum training required for fire fighters engaged in structural fire fighting do not modify the substance of those requirements but update a reference to a national standard used in the rule, delete references to a past effective date which are no longer needed, and modify the format, but do not change the content, of the list of subjects for continuing training of fire department members.

In addition, the Fire Service Training Bureau, which is under the direction of the State Fire Marshal, administers the certification program for fire fighters in the State of Iowa. This certification program is recognized nationally by the National Board on Fire Service Professional Qualifications (PROBOARD) and internationally by the International Fire Service Accreditation Congress (IFSAC). Certification is not required by state law to work in the fire service in Iowa, but certification is required by some fire departments as a condition of employment. Amendments adopted herein to the rules establishing certification standards do not change the substance of those standards but add references to recognition of Iowa’s certification program by the PROBOARD and reorganize explanatory information in the notes to rule 661—251.201(100B) for greater clarity.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 9766B** on October 5, 2011. A public hearing was held on November 1, 2011, to accept comments on the amendments proposed in the Notice of Intended Action. No comments were received either at the hearing or otherwise, and the amendments adopted herein are identical to those proposed under Notice of Intended Action.

These amendments are not anticipated to have any fiscal impact.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 100B.

These amendments will become effective February 1, 2012.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [251.101 to 251.103, 251.201, 251.204(1)] is being omitted. These amendments are identical to those published under Notice as **ARC 9766B**, IAB 10/5/11.

[Filed 11/23/11, effective 2/1/12]

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[For replacement pages for IAC, see IAC Supplement 12/14/11.]